

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST ORANGE,

Petitioner,

-and-

Docket No. SN-84-132

WEST ORANGE PBA LOCAL #25,

Respondent.

SYNOPSIS

The Public Employment Relations Commission partially restrains binding arbitration of a grievance that West Orange PBA Local #25 filed against the Township of West Orange. The Commission restrains binding arbitration to the extent the grievance challenged the Township's right to establish a sick leave verification program or to require employees on sick leave for a certain number of days to attend conferences with supervisory personnel. The Commission permits binding arbitration to the extent the grievance raises the question of who pays for any required doctors' visits.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST ORANGE,

Petitioner,

- and -

Docket No. SN-84-132

WEST ORANGE PBA LOCAL #25,

Respondent.

Appearances:

For the Petitioner, Marvin Corwick, Business Administrator,
on the brief

For the Respondent, Schneider, Cohen & Solomon, Esqs.
(David Solomon, Esq., on the brief)

DECISION AND ORDER

On June 19, 1984, the Township of West Orange ("Township") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission. The Township seeks a restraint of binding arbitration of a grievance which West Orange PBA Local #25 ("PBA") filed against it. The grievance alleges that the Township violated its collective negotiations agreement with the PBA when it instituted a sick leave verification policy.

The parties have filed statements and exhibits. The following facts appear.

The PBA is the majority representative of the Township's police officers below the rank of sergeant. The Township and PBA entered a collective negotiations agreement effective from July 1, 1983 through December 31, 1984. That agreement contains a grievance procedure ending in binding arbitration. Article XI,

entitled sick leave, provides: "Present practice concerning sick leave entitlement shall be maintained as per the 1972 Revised General Ordinances of the Township of West Orange as amended and supplemented."

On May 16, 1984, the Township issued a memorandum to Officer James Ench entitled Notification of Initial Counselling Session Regarding Excessive Absence Due to Reported Illness. The memorandum stated that Ench's records showed that he had used an "excessive amount" of sick leave time. The memorandum directed him to meet with the Uniformed Division Commander and his commanding officer on May 21, 1984 to discuss this matter. The memorandum further directed Ench to bring medical documentation from a New Jersey licensed physician.

On May 21, 1984, the PBA filed a grievance protesting that the use of the memorandum violated Article XI of the parties' contract. The grievance was denied; the PBA sought binding arbitration; and the instant petition ensued.

The Township contends that it has a managerial prerogative to institute a sick leave verification policy. It cites In re Piscataway Twp. Bd. of Ed., P.E.R.C. No. 82-64, 8 NJPER (¶13089 1983); In re City of East Orange, P.E.R.C. No. 84-68, 10 NJPER 25 (¶15015 1983); In re Township of West Orange, P.E.R.C. No. 84-141, 10 NJPER 358 (¶15166 1984) ("West Orange"). The PBA now asserts that it is only contesting that portion of the memorandum allegedly mandating that employees pay for doctors' visits.

In another case decided today, In re Newark Bd. of Ed., P.E.R.C. No. 85- , 10 NJPER (¶ 1984), we have held that

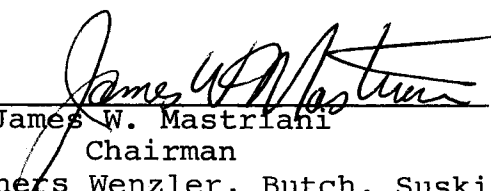
a public employer has a managerial prerogative to require employees on sick leave for a certain number of days to attend conferences with supervisory personnel. We have also held, in the cases the Township cites, that a public employer has a managerial prerogative to require doctors' certificates from employees on sick leave. Finally, we have held, in West Orange; In re City of Elizabeth, P.E.R.C. No. 84-75, 10 NJPER 39 (¶15022 1983), appeal pending App. Div. Dkt. No. A-2397-83T3; and In re City of Newark, P.E.R.C. No. 85-13, 10 NJPER (¶ 1984), that the question of whether the employer or the employees pay for any required doctors' visits is mandatorily negotiable and arbitrable.

In the instant case, the City's ability to require conferences and doctors' certificates is no longer contested. The only aspect of the memorandum now in dispute is the question of who pays for any required doctors' visits. That is a mandatorily negotiable and arbitrable subject and we will permit binding arbitration on that limited issue.

ORDER

The request of the Township of West Orange for a restraint of binding arbitration is granted except to the extent the grievance raises the limited issue of whether the employer or the employees must pay for any required doctors' visits.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Wenzler, Butch, Suskin, Newbaker and Hipp voted for this decision. Commissioner Graves voted against this decision.

DATED: TRENTON, NEW JERSEY

September 19, 1984

ISSUED: September 20, 1984