

P.E.R.C. NO. 94-43

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BRIDGEWATER-RARITAN REGIONAL  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-93-116

BRIDGEWATER-RARITAN  
EDUCATION ASSOCIATION, INC.,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Bridgewater-Raritan Education Association, Inc. against the Bridgewater-Raritan Regional Board of Education. The grievance seeks increased compensation for custodians whose workload allegedly increased as a result of a reduction in force. The Commission finds that these custodians have not had their work hours extended or their duty-free time decreased nor have they had to perform duties outside of their job classification. There is no basis for finding a severable compensation claim.

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Appearances:

For the Petitioner, Daniel C. Soriano, Jr., attorney

For the Respondent, John A. Thornton, Jr., NJEA Field  
Representative

DECISION AND ORDER

On June 15, 1993, the Bridgewater-Raritan Regional Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a grievance filed by the Bridgewater-Raritan Education Association, Inc. The grievance seeks increased compensation for custodians whose workload allegedly increased as a result of a reduction in force.

The parties have filed exhibits and briefs. These facts appear.

The Association represents the Board's non-supervisory certificated personnel, secretarial/clerical personnel, and service personnel. The parties entered into a collective negotiations

agreement effective from July 1, 1992 to June 30, 1994. The grievance procedure ends in binding arbitration of contractual disputes.

Custodians at the high school work various shifts. The late shift runs from 3:00 p.m. to 11:00 p.m. Before July 1, 1992, eleven custodians and one matron were assigned to that shift. Effective July 1, 1992, one custodian was laid off. The remaining custodians were not required to work longer hours or during duty-free time or to perform duties outside of their job description.

The Association filed two class action grievances on behalf of the remaining custodians. The grievances asserted that the workload of custodians had been increased and sought increased compensation or the rehiring of additional custodians. The grievances were denied; the Association demanded binding arbitration; and this petition ensued.

Our jurisdiction is narrow. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978), states:

The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts.

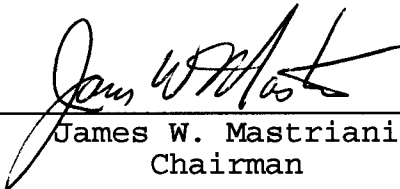
Thus, we do not consider the contractual merits of the grievance or any contractual defenses the employer may have.

The Board has a prerogative to reduce its custodial staff and to redistribute the duties of a laid-off employee. Absent a significant and measurable workload increase among the remaining staff, a claim seeking increased compensation is not severable from the reduction-in-force and is not legally arbitrable. See, e.g., Newark Bd. of Ed., P.E.R.C. No. 92-94, 18 NJPER 140 (¶23066 1992); Caldwell-West Caldwell Bd. of Ed., P.E.R.C. No. 87-137, 13 NJPER 360 (¶18148 1987), recon. den. P.E.R.C. No. 87-163, 13 NJPER 589 (¶18220 1987); Fair Lawn Bd. of Ed., P.E.R.C. No. 87-135, 13 NJPER 356 (¶18146 1987); Old Bridge Tp. Bd. of Ed., P.E.R.C. No. 86-113, 12 NJPER 360 (¶17136 1986), aff'd App. Div. Dkt. No. A-4429-85T6 (3/35/87), certif. den. 108 N.J. 665 (1987). Contrast Rahway Bd. of Ed., P.E.R.C. No. 88-29, 13 NJPER 757 (¶18286 1987) (teachers required to teach extra period because of reduction-in-force could arbitrate grievance seeking extra compensation). These custodians have not had their work hours extended or their duty-free time decreased nor have they had to perform duties outside of their job classification. There is no basis on this record for finding a severable compensation claim. We accordingly restrain binding arbitration.

ORDER

The request of the Bridgewater-Raritan Regional Board of Education for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Goetting, Grandrimo and Wenzler voted in favor of this decision. Commissioner Smith voted against this decision. Commissioners Bertolino and Regan abstained from consideration.

DATED: October 25, 1993  
Trenton, New Jersey  
ISSUED: October 26, 1993