BURLINGTON COUNTY,

COLLEEN FOX,

STATE OF NEW JERSEY BEFORE THE MERIT SYSTEM BOARD AND

PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JOINT ORDER COLLEEN FOX.

ON CONSOLIDATION AND

PREDOMINANT INTEREST Appellant, :

OAL Docket No. CSV 8122-98S -and-

BURLINGTON COUNTY,

Respondent.

Respondent,

PERC Docket No. CO-H-99-10 -and-

Charging Party. :

SYNOPSIS

The Merit System Board and the Chair of the Public Employment Relations Commission have issued a joint order consolidating an MSB appeal and a PERC unfair practice charge for hearing before an Administrative Law Judge and declaring that the Merit System Board has the predominant interest. After the ALJ issues a recommended decision, the Merit System Board will review the record to determine whether the employees' suspension was for legitimate disciplinary reasons and was warranted under Merit System law. The Commission will then determine whether the Employer-Employee Relations Act was violated.

This synopsis is not part of the joint order. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission or the Merit System Board.

P.E.R.C. NO. 2000-44 STATE OF NEW JERSEY MERIT SYSTEM BOARD AND

PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COLLEEN FOX,

v.

Appellant,

JOINT ORDER

ON CONSOLIDATION AND

PREDOMINANT INTEREST

BURLINGTON COUNTY,

OAL Docket No. CSV 8122-98S

Respondent.

BURLINGTON COUNTY,

Respondent,

-and-

PERC Docket No. CO-H-99-10

COLLEEN FOX,

Charging Party.

Appearances:

For the Appellant-Charging Party, Calvin W. Money, CWA Representative For the Respondent, Daniel Hornickel, attorney

JOINT DECISION

Colleen Fox, a Head Nurse with Buttonwood Hospital, Burlington County was suspended for six days on charges of incompetency, inefficiency or failure to perform duties; inability to perform duties; conduct unbecoming a public employee; and neglect of duty. The incident giving rise to the charges stemmed from the elopement of a patient from the Psychiatric Unit at the hospital. Fox appealed the matter to the Merit System Board who transmitted the matter to the Office of Administrative Law (OAL) for determination as a contested case.

In addition, Fox filed an unfair practice charge with the Public Employment Relations Commission. The charge alleges that Fox was suspended due to her union activities.

On October 20, 1999, Administrative Law Judge (ALJ) Solomon A. Metzger signed a Consent Order where the parties agreed that the Board would have "exclusive jurisdiction over the matters."

Having independently evaluated the record and considered the ALJ's Order, the Board, at its meeting on November 23, 1999 and the Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, on November 29, 1999 made the following determination in the matter.

JOINT ORDER

Based upon the Consent Order and a review of the record by both the Merit System Board and the Public Employment Relations Commission, it is ordered that the matter be disposed of in the following manner.

The above matters are consolidated for hearing before an ALJ. The Merit System Board has the predominant interest but not exclusive jurisdiction in the matter. The ALJ will first recommend findings of fact and conclusions of law to both the Merit System Board and the Public Employment Relations Commission, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Merit System Board to determine whether Fox's suspension was for legitimate disciplinary reasons and was otherwise warranted under Merit System law; and

The Merit System Board's decision and the complete record will then be sent to the Public Employment Relations Commission to determine whether the New Jersey Employer-Employee Relations Act was violated.

DECISION RENDERED BY THE MERIT SYSTEM BOARD ON **NOVEMBER 23, 1999**

DECISION RENDERED BY THE CHAIR OF THE PUBLIC EMPLOYMENT RELATIONS COMMISSION ON NOVEMBER 29, 1999

Commissioner

Department of Personnel

Millicent A. Wasell

Chair

Public Employment Relations Commission

DATED:

Trenton, New Jersey November 23, 1999

DATED:

Trenton, New Jersey November 29, 1999