

P.E.R.C. NO. 92-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

VILLAGE OF RIDGEWOOD,

Petitioner,

-and-

Docket No. SN-92-81

RIDGEWOOD PBA LOCAL 20,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by Ridgewood PBA Local 20 against the Village of Ridgewood. The grievance contests General Order 91-7 prohibiting police officers from working more than six days in a week. N.J.S.A. 40A:14-133 precludes an employer, absent an emergency, from requiring employees to work more than six days in a row.

P.E.R.C. NO. 92-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

VILLAGE OF RIDGEWOOD,

Petitioner,

-and-

Docket No. SN-92-81

RIDGEWOOD PBA LOCAL 20,

Respondent.

Appearances:

For the Petitioner, Grotta, Glassman & Hoffman, attorneys
(Judith S. Miller, of counsel)

For the Respondent, Alfred G. Osterweil, attorney
(Craig Kozan, of counsel)

DECISION AND ORDER

On February 26, 1991, the Village of Ridgewood petitioned for a scope of negotiations determination. The Village seeks a restraint of binding arbitration of a grievance which Ridgewood PBA Local 20 has filed. The grievance contests General Order 91-7 prohibiting police officers from working more than six days in a week.

The parties have filed exhibits and briefs. The PBA has also requested an evidentiary hearing, a request we deny since the PBA has not identified any factual issues in dispute. The following facts appear.

The PBA represents the Village's full-time police officers. The parties have entered into a collective negotiations

agreement effective from January 1, 1989 through December 31, 1990. The grievance procedure ends in binding arbitration.

Before General Order 91-7 was issued, the work schedules of police officers periodically resulted in their working seven days in a week. Each patrol officer had an individually staggered 5-2 schedule, with the same two days off each week for a 28 day cycle. At the end of that cycle, the officers would rotate shifts (e.g., from day to night shift). At each shift rotation, each officer was advanced two days off. This advancement resulted in each officer periodically having to work seven days in a week. For example, an officer who worked the evening shift and had Fridays and Saturdays off would rotate to the day shift at the end of the 28 day cycle and have Sundays and Mondays off. Having worked Sunday through Thursday on the evening shift, the officer would now work Saturday and Sunday on the new shift before having any time off.

On October 31, 1991, the police chief issued General Order 91-7. That order announced a change in work schedules to comply with N.J.S.A. 40A:14-133, which states that "the days of employment of any member or officer of the police department or force...shall not exceed 6 days in any one week, except in cases of emergency. The order listed these three changes:

1. Days off will be advanced one (1) day instead of two (2) at shift change.
2. Officers may no longer swap shifts that may cause them to work in excess of six (6) days in any one week.
3. Officers may not be assigned to special work details which would exceed six (6) days in any one work week.

The order stated that it would apply at all times except during emergencies. The requirement that days off be advanced one day instead of two at the shift change eliminated the situation of officers having to work seven days in a row.


On November 7, 1991, the PBA filed a grievance. The police chief acknowledged that the order had modified some contractual provisions, but denied the grievance because he believed the order was necessary to comply with N.J.S.A. 40A:14-133. The PBA demanded binding arbitration and this petition ensued.

In Ewing Tp., P.E.R.C. No. 83-165, 9 NJPER 400 (¶14182 1983), we held that N.J.S.A. 40A:14-133 precluded an employer, absent an emergency, from requiring employees to work more than six days in a row. Ewing controls this case. The argument that N.J.S.A. 40A:14-133 is arcane must be addressed to the Legislature and the argument that the Fair Labor Standards Act, 29 U.S.C. 201 makes this statute unconstitutional must be addressed to the courts.

ORDER

The request for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo and Smith voted in favor of this decision. None opposed. Commissioners Regan and Wenzler were not present.

DATED: April 28, 1992
Trenton, New Jersey
ISSUED: April 29, 1992