

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CHESTER,

Respondent,

-and-

Docket No. CO-2002-180

CHESTER BOROUGH POLICE
OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Borough of Chester's motion for reconsideration of I.R. No. 2002-8. In that decision, a Commission designee restrained the employer from implementing a planned work schedule change. She found that the Chester Borough Police Officers Association had demonstrated a substantial likelihood of success on the merits of its claim that the Borough planned to change from a 12-hour to an 8-hour schedule in retaliation for a police officer's grievance about special duty assignments. The designee also found that the Association had demonstrated irreparable harm if the schedule was changed and that the Borough had not asserted any harm to it or the public in maintaining the current work schedule. The Commission concludes that no extraordinary circumstances warrant reconsideration of the designee's determinations.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Respondent, Sears, Sweeney & Marcickiewicz,
attorneys (Richard Marcickiewicz, of counsel)

For the Charging Party, Klatsky & Klatsky, attorneys
(David J. DeFillippo, of counsel)

DECISION

On March 15, 2002, the Borough of Chester moved for reconsideration of I.R. No. 2002-8, 28 NJPER ____ (¶____ 2002). In that decision, a Commission designee restrained the employer from implementing a planned work schedule change. She found that the Chester Borough Police Officers Association had demonstrated a substantial likelihood of success on the merits of its claim that the Borough planned to change from a 12-hour to an 8-hour schedule in retaliation for a police officer's grievance about special duty assignments. The designee also found that the Association had demonstrated irreparable harm if the schedule was changed and

that the Borough had not asserted any harm to it or the public in maintaining the current work schedule.

The Borough argues that the designee's determination that work schedules are mandatorily negotiable was unnecessary and wrong; the designee's order to maintain a 12-hour schedule did not include maintenance of related terms and conditions of employment, such as staffing levels and paid leave calculations that were established when the Borough changed to a 12-hour schedule on an interim basis; and the work schedule change was not announced at a point where it could have chilled negotiations.

On March 20, 2002, the Association filed a response opposing reconsideration. It argues that no extraordinary circumstances warrant reconsideration. It asserts that case law upholds the negotiability of work schedules; it has never sought to change the other working conditions associated with the 12-hour schedule; and the schedule change was announced while the parties were still in interest arbitration.^{1/}

As stated by the designee, even if an employer has a managerial prerogative to take a personnel action, it may not do so for reasons that violate the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The designee found that the

^{1/} On April 24, 2002, the Borough filed a reply not authorized by N.J.S.A. 19:14-8.4.

Association demonstrated a substantial likelihood of proving that the planned schedule change was in retaliation for the exercise of protected activity. No extraordinary circumstances warrant reconsideration of that determination. N.J.A.C. 19:14-8.4.

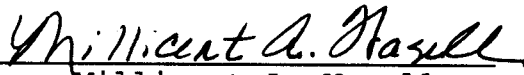
The Association does not challenge the Borough's assertion that the other working conditions associated with the 12-hour schedule are to remain in effect. There is no reason to consider that issue further.

Finally, no extraordinary circumstances warrant reconsidering the designee's determination that the schedule change was improperly announced during the interest arbitration process. Even if there was no potential harm to the interest arbitration process, the harm flowing from an illegally imposed work schedule on employee work and home life is irreparable.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, McGlynn, Muscato and Sandman voted in favor of this decision. Commissioners Katz and Ricci were not present.

DATED: April 25, 2002
Trenton, New Jersey
ISSUED: April 26, 2002