

P.E.R.C. NO. 97-95

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF RUTHERFORD,

Petitioner,

-and-

Docket No. SN-96-28

RUTHERFORD PBA LOCAL NO. 300,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Borough of Rutherford's motion for reconsideration of P.E.R.C. No. 97-12. In that decision, the Commission denied the Borough's request for a restraint of binding arbitration of a grievance filed by Rutherford PBA Local No. 300. The grievance alleges that the Borough violated the parties' collective negotiations agreement when it announced that minimum staffing requirements for Saturdays would continue to be based on shifts of five officers on the morning shift and six officers on the afternoon shift, but that vacation scheduling for Saturdays would continue to be based on shifts of five officers on the morning shift and six officers on the afternoon shift. The Commission finds no extraordinary circumstances warranting reconsideration.

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 Petitioner, Lane J. Biviano, attorney

For the Respondent, Loccke & Correia P.A., attorneys
(Joseph Licata, of counsel)

DECISION AND ORDER

On September 19, 1996, the Borough of Rutherford moved for reconsideration of P.E.R.C. No. 97-12, 22 NJPER 322 (127163 1996). In that decision, we denied the employer's request for a restraint of binding arbitration of a grievance filed by Rutherford PBA Local No. 300. The grievance alleges that the employer violated the parties' collective negotiations agreement when it announced that minimum staffing requirements for Saturdays would now be four officers on the morning shift and five officers on the afternoon shift, but that vacation scheduling for Saturdays would continue to be based on shifts of five officers on the morning shift and six officers on the afternoon shift. We held that the scheduling of vacations and other time off is mandatorily negotiable and legally arbitrable

so long as an agreed-upon system does not prevent an employer from fulfilling its staffing requirements. In addition, we held that the additional labor cost of overtime payments does not make a vacation scheduling dispute non-negotiable.

The Borough asserts that our decision places it in the position of delaying action on vacation leave requests as long as possible, not readily granting last minute vacation leave requests, or routinely canceling another officer's scheduled vacation when an officer calls in sick at the last minute. It also reiterates its position that the grievance involves the non-negotiable issue of staffing levels.

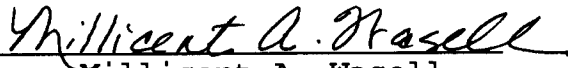
The PBA asserts that the Borough has not cited any extraordinary circumstances warranting reconsideration. It argues that our decision correctly balanced the parties' competing interests.

Reconsideration will be granted only in extraordinary circumstances. The Borough has asserted that permitting arbitration may lead it to adjust the way it treats vacation requests. This argument does not go to the negotiability or legal arbitrability of the grievance. We have already considered the employer's negotiability arguments and find no extraordinary circumstances warranting reconsideration.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Boose, Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed.

DATED: February 27, 1997
Trenton, New Jersey
ISSUED: February 28, 1997