

P.E.R.C. NO. 78-37

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAYWOOD BOARD OF ECUCATION,

Respondent-Charging Party,

-and-

Docket Nos. CO-76-96-53  
and CE-76-17-54

MAYWOOD EDUCATION ASSOCIATION,

Charging Party-Respondent.

SYNOPSIS

The Commission denies a Motion for Reconsideration filed by the Association with respect to a previously issued decision and order, P.E.R.C. No. 78-23, 3 NJPER \_\_\_\_ (1977). The Motion for Reconsideration relates primarily to the remedy ordered, a matter fully considered by the Commission in its earlier decision. The Commission does not believe that the Association has raised the "extraordinary circumstances" necessary to warrant reconsideration.

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Appearances:

For the Maywood Board of Education, Gerald L. Dorf, P.A.,  
On the Motion)

For the Maywood Education Association, Goldberg, Simon &  
Selikoff, Esqs., (Mr. Theodore M. Simon, On the Brief)

DECISION AND ORDER ON MOTION

On November 17, 1977, the Public Employment Relations Commission issued its Decision and Order in the above-captioned consolidated unfair practice proceeding. In re Maywood Board of Education, P.E.R.C. No. 78-23, 3 NJPER \_\_\_\_ (1977). In that decision the Commission, after carefully considering the entire record including the transcript, exhibits, Hearing Examiner's Recommended Report and Decision, the Association's exceptions, and the Board's answer to those exceptions, adopted some of the findings of fact and conclusions of law of the Hearing Examiner and did not adopt certain others. Specifically, the Commission did not adopt the conclusion of law that the Board had violated the Act by refusing to negotiate the decision to RIF (lay-off for economic reasons) a tenured school librarian.

The exceptions of the Association had gone primarily to the questions of remedy. Given the Commission's modification of the Hearing Examiner's Recommended Report and Decision and the exceptions filed by the Association, the Commission fully considered the

remedy portion of the Recommended Order. The Commission modified the portion of the remedy which was affected by the reversal of the conclusion concerning the decision to RIF the librarian. Independent of the RIF portion of the decision the Commission also modified the remedy to require the Board to restore the status quo ante as to certain teachers whose workload had been unilaterally increased by the Board. This was an addition to the negotiation remedy recommended by the Hearing Examiner. (The Commission's order allowed for a 60 day period to effectuate the restoration so as to permit an orderly transition to the prior workload.)

By Notice of Motion dated December 2, 1977, the Association has filed a Motion for Reconsideration and Supporting Brief pursuant to N.J.A.C. 19:14-8.4 in which it requests reconsideration of the Commission's November 17, 1977 Decision and Order and also requests oral argument. The basis for this request is the assertion that the Commission did not adequately respond to the arguments on the remedy pressed by the Association in its exceptions to the Hearing Examiner's Recommended Report and Decision. The Board of Education submitted a letter in response to the Association's Motion in which it advised the Commission that if the Motion were granted, it requested to be heard on other portions of the decision and order, however, it did not specify exactly to what portions it was referring.

The Association's Motion is hereby denied. N.J.A.C. 19:14-8.4 provides for a motion for reconsideration because of "extraordinary circumstances". The Association's Motion and Brief allege no such extraordinary situation but rather contend that the Commission

did not adequately consider all the points and cases presented in their exceptions. As indicated above, and as review of the decision substantiates, the Commission fully considered the questions of appropriate remedy; going so far as to review the recommended order on an item by item basis, adopting some portions and modifying others to conform to the Commission's findings of fact and conclusions of law. The Commission does not believe that the Association's argument would amount to "extraordinary circumstances" even if such a lengthy discussion had not been incorporated in the decision, but given the fact that the Commission did fully review the exceptions raised, the argument of the Association is particularly without merit as a basis for reconsideration.

As the Commission finds no reason to grant the motion for reconsideration, it therefore similarly denies the request for oral argument and the Board's request to be given an opportunity to move for reconsideration of other portions of the Decision and Order.

BY ORDER OF THE COMMISSION

  
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Jeffrey B. Tener  
Chairman

DATED: Trenton, New Jersey  
December 20, 1977  
ISSUED: December 28, 1977

Chairman Tener, Commissioners Hartnett and Parcels voted for this decision. Commissioner Forst voted against this decision and Commissioner Hurwitz abstained. Commissioner Hipp was not present at the time of the vote.