

P.E.R.C. NO. 87-90

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NORTH WILDWOOD,

Petitioner,

-and-

Docket No. SN-87-4

LOCAL NO. 56, F.M.B.A.,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines that the City of North Wildwood's proposed changes in sick, personal, funeral and vacation leave entitlements are mandatorily negotiable and may be submitted to interest arbitration proceedings with Local No. 56, F.M.B.A.

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Appearances:

For the Petitioner, Gruccio, Pepper, Giovinazzi, DeSanto & Mann, P.A. (Lawrence Pepper Jr., of counsel and on the brief)

For the Respondent, Schlesinger, Schlosser, Foy & Harrington, Esqs., (Thomas P. Foy, of counsel and on the brief).

DECISION AND ORDER

On August 12, 1986, the City of North Wildwood ("City") filed a Petition for Scope of Negotiations Determination. The City seeks a determination that its proposed overhaul of shifts and work schedules of firefighters is not mandatorily negotiable.

Both parties have filed briefs. The following facts appear.

Local No. 56, F.M.B.A. ("FMBA") is the majority representative of the City's firefighters except for the Chief. The department's full-time complement consists of the Chief and seven other firefighters. The parties are engaged in negotiations and interest arbitration for a collective negotiations agreement to succeed the one which expired on December 31, 1985. Article 8, Section 1 sets the existing work hours and work schedule of the firefighters:

[T]he Firemen's work shall be ten (10) hours starting at 8:00 a.m. and ending 6:00 p.m. the same day. The night tour shall consist of fourteen (14) hours commencing at 6:00 p.m. and ending 8:00 a.m. the following morning. The work week is presently forty-nine and one-third ( $49 \frac{1}{3}$ ) hours in a three (3) week cycle. The three (3) week cycle is as follows: Week 1 - a fireman will work 5 ten hour day tours; Week 2 - a fireman will work 3 fourteen hour night tours; Week 3 - a fireman will work 4 fourteen hour night tours. Total hours in three (3) week cycle are the 148 divided by three (3) equals an average of forty-nine and one-third ( $49 \frac{1}{3}$ ) hours per week.

The City wants to implement a work schedule of two 24 hour shifts per firefighter each seven days. The City asserts that the new arrangement would be more efficient, would provide 24 hour coverage and would eliminate the need for hiring part-time replacements except for emergencies or when full-time firefighters are on leave. The FMBA does not challenge the City's imposition of its proposed new work schedule. It seeks only to negotiate concerning the severable economic consequences of the work schedule change.

We need not determine the existing schedule's coverage because the FMBA does not seek to negotiate over the switch to the City's proposed schedule. The FMBA maintains only that if the City implements the new schedule, it may not unilaterally alter the compensation and benefits the firefighters currently receive.

The City, by contrast, seeks only a determination that a change to the proposed schedule is not mandatorily negotiable. It does not question the negotiability of alterations in leave entitlements.

We decide the case as the parties have presented it to us. Assuming it has a right to implement the new schedule, we hold that the City may not unilaterally alter the employees' leave entitlements. N.J.S.A. 34:13A-21 provides that during interest arbitration, "existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other...." These subjects are all mandatorily negotiable and are severable from the decision to change scheduling. City of Elizabeth and Elizabeth Fire Officers Ass'n, Loc. 2040, IAFF, 198 N.J. Super. 382 (App. Div. 1985); City of Newark, P.E.R.C. No. 86-71, 12 NJPER 20 (¶17007 1985).

ORDER

The City's proposed changes in sick, personal, funeral and vacation leave are mandatorily negotiable and may be submitted to interest arbitration.

BY ORDER OF THE COMMISSION

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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Johnson, Reid, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey  
January 16, 1987  
ISSUED: January 16, 1987