

P.E.R.C. NO. 83-115

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PERTH AMBOY BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-83-14

PERTH AMBOY FEDERATION OF  
TEACHERS, LOCAL 857, AFT,  
AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a Motion for Reconsideration of its Chairman's decision in P.E.R.C. No. 83-52, 8 NJPER \_\_\_\_ (¶ \_\_\_\_ 1982). The motion was untimely.

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Appearances:

For the Petitioner, Aron, Till & Salsberg, Esquires  
(Ellen Bass, of Counsel)

For The Respondent, Sauer, Boyle, Dwyer & Canellis,  
Esquires (Amy H. Rudolph, of Counsel)

DECISION AND DECISION

On August 9, 1982, the Perth Amboy Board of Education ("Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission. The Board sought a permanent restraint of binding arbitration over a grievance the Perth Amboy Federation of Teachers, Local 857, AFT, AFL-CIO ("Federation") had filed. The grievance concerned the Superintendent's failure to recommend the appointment of Constance Bryant to a summer guidance counselor position. The decision to appoint someone besides Bryant to that position allegedly violated the Board's past practice of making such appointments according to a rotating seniority system.

On October 26, 1982, the Chairman of this Commission, acting pursuant to authority delegated to him by the full Commission, granted the Board's request for a permanent restraint

of binding arbitration. P.E.R.C. No. 83-52, 8 NJPER \_\_\_\_ (¶ \_\_\_\_ 1982). He concluded, citing well-established caselaw, that the dispute primarily involved the Board's managerial prerogative to select the candidates it deems best for a particular position.

On December 6, 1982, the Federation filed a Motion for Reconsideration together with a letter brief and supporting affidavits. It disagrees that the primary issue is the Board's right to make appointments or assignments, and reasserts its previous position that the primary issue is the guidance counselor's claim, pursuant to a rotating seniority system used in the past, to continue employment into the summer.<sup>1/</sup>

The Board has filed a statement opposing reconsideration. It contends that the motion is untimely and groundless.

N.J.A.C. 19:13-3.11 permits the filing of a motion for reconsideration of a scope of negotiations decision in accordance with the same provisions a party seeking reconsideration of an unfair practice decision must follow. N.J.A.C. 19:14-8.4, in turn, provides, in part:

A party to a proceeding before the commission may, because of extraordinary circumstances, move for reconsideration after the commission decision has been rendered. The movant shall state with particularity the grounds claimed and, where applicable, shall specify the page of the record relied upon. Any motion pursuant to this section shall be filed within 15 days after service of the commission decision....

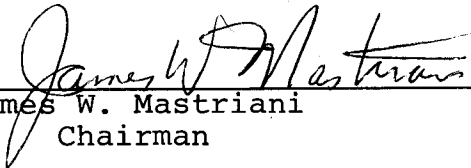
<sup>1/</sup> The Federation also draws our attention to a typographical error in the Chairman's opinion. That opinion inadvertently omitted the word not in the following sentence: "[The Federation] cites In re Rutgers, [The State University, P.E.R.C. No. 79-89, 5 NJPER 226 (¶10135 1979), for the proposition that continued employment in a summer position is not a managerial prerogative."

In the instant case, the Federation's motion is untimely and no valid explanation for this untimeliness is offered. Accordingly, we decline to reconsider the Chairman's decision. In re East Orange Bd. of Ed., P.E.R.C. No. 79-76, 5 NJPER 190 (¶10107 1979).

ORDER

The Federation's Motion for Reconsideration is denied.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Suskin, Butch and Hartnett voted for this decision. Commissioners Hipp and Graves voted against this decision. Commissioner Newbaker abstained.

DATED: Trenton, New Jersey  
February 16, 1983  
ISSUED: February 17, 1983