

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MICHAEL A. DEPOMPEO,	:	
	:	
Appellant,	:	
	:	
-and-	:	OAL Docket No. CSV 9305-97N
	:	
TOWNSHIP OF TEANECK,	:	
	:	
Respondent,	:	
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TOWNSHIP OF TEANECK,	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Docket No. CI-H-97-93
	:	
MICHAEL A. DEPOMPEO,	:	
	:	
Charging Party.	:	
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SYNOPSIS

The Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, and the Merit System Board, jointly deny a motion for consolidation. The Township of Teaneck sought consolidation of appeals before the Merit System Board and an unfair practice charge before the Commission filed by Michael A. DePompeo. An Administrative Law Judge had denied the motion to consolidate finding that although the parties are identical, the issues are not and that consolidation would not improve the efficiency of justice. The Commission and the Board agree that consolidation is not warranted.

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

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	:	
Charging Party.	:	
_____	:	

Appearances:

For the Respondent, Peckar & Abramson, attorneys (Gregory R. Begg, on the motion)

For the Petitioner-Charging Party, Warren & Tosi, attorneys (Lawrence G. Tosi, of counsel)

JOINT DECISION

On February 25, 1997, the Township of Teaneck returned Michael A. DePompeo to his permanent title of firefighter for failing to complete the working test period for the title of fire lieutenant. DePompeo appealed to the Merit System Board. That appeal was transmitted to the Office of Administrative Law as a contested case.

On April 1, 1997, the Township promoted the second person on the promotional list to the position of fire lieutenant and DePompeo filed an objection with the Merit System Board. The Township thereafter removed DePompeo's name from the promotional list and DePompeo appealed that removal to the Merit System Board as well. The Board has indicated that the list removal appeal cannot be decided until the working test period appeal is resolved.

On June 21, 1997, DePompeo filed an unfair practice charge with the Public Employment Relations Commission alleging that his holidays were readjusted in retaliation for his activity protected by the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

The Township moved before the Administrative Law Judge assigned the Merit System Board appeal to have the appeal and the charge consolidated and for a determination that the Merit System Board should have the predominant interest in the conduct and outcome of the consolidated matter. The Township argued that DePompeo's proofs in each case will focus on his alleged association with and support of former union president William Brennan and that the facts and legal issues of each case are intertwined.

DePompeo opposed consolidation, but urged that the two Merit System Board matters be tried at the same time.

The Township filed a reply. It argued that the Judge had no jurisdiction over the list removal appeal because the Board did

not send it to OAL for hearing. It also reiterated its position that judicial economy warrants consolidation of the Board and Commission matters.

On July 15, 1999, Administrative Law Judge Jeffrey A. Gerson issued an Initial Decision denying the motion to consolidate. He found that although the parties are identical, the issues are not and that consolidation would not improve the efficiency of justice.

Having independently evaluated the record and considered the Administrative Law Judge's order, the Merit System Board at its meeting on August 31, 1999 and the Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, on August 12, 1999 agreed that consolidation of the unfair practice charge and Merit System Board appeals was not warranted.

JOINT ORDER

The motion for consolidation is denied.

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
SEPTEMBER 8, 1999

DECISION RENDERED BY THE CHAIR
OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION ON
AUGUST 12, 1999



JANICE M. MINTZ
COMMISSIONER



MILLICENT A. WASELL
CHAIR