

P.E.R.C. NO. 96-71

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
COUNTY OF HUDSON,

Appellant,

-and-

Docket No. IA-95-35

P.B.A. LOCAL 51,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses the County of Hudson's appeal of an interest arbitration award issued involving the County and P.B.A. Local 51. The Police and Fire Public Interest Arbitration Reform Act, P.L. 1995, c. 425, grants the Commission jurisdiction to entertain appeals of arbitration awards. However, the Commission finds that it does not have jurisdiction over this appeal since the arbitration was conducted under the predecessor statute and the arbitrator issued the award applying the pre-amendment statutory criteria. There does not appear to be any direct authority for Commission review of awards issued under the old criteria.

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 Appellant, Genova, Burns, Trimboli & Vernioia,
attorneys (Stephen E. Trimboli, of counsel)

DECISION AND ORDER

The Police and Fire Public Interest Arbitration Reform Act P.L. 1995, c. 425, was signed into law on January 10, 1996. Under the predecessor statute, all actions to confirm, modify, or vacate an interest arbitration award were within the jurisdiction of the trial division of the Superior Court. We had no power to review such awards and no role to play in such proceedings. Under the new statute, section 3(f)(a) grants us jurisdiction to entertain appeals of awards "on the grounds that the arbitrator failed to apply the criteria specified in subsection g. of this section or violated the standards set forth in N.J.S.A. 2A:24-8 or N.J.S.A. 2A:24-9."

Section 11 of the new statute specifies the effective date of the new statute. It provides:

This act shall take effect immediately and shall apply to all collective negotiations between public fire and police departments and the exclusive representatives of their public employers except those formal arbitration proceedings in which the arbitrator has, prior to the effective date of this act, taken testimony from the parties; provided, however, in any collective negotiation where there has occurred prior to the effective date of this act mediation, factfinding, the selection of an arbitrator, or agreement of a terminal procedure, those actions shall remain valid and in force for the remainder of the collective negotiations, which shall be subject to the provisions of this act....
[Emphasis supplied]

The County of Hudson has filed an appeal with us of an interest arbitration award issued on March 12, 1996. Formal hearings in the arbitration commenced on January 19, 1995 in a proceeding where the arbitrator chose from among the parties' final offers. The entire proceeding was conducted under the standards and procedures set forth in the predecessor statute.

The issue is whether we have jurisdiction to entertain this appeal. The County argues that we do. It asserts that section 11's exception is limited to "formal arbitration proceedings" -- and does not apply to pre-arbitration proceedings or post-arbitration appeals. The County contends that the "formal arbitration proceedings" in this case ended when the arbitrator issued his award and that the new statute thus applies to these "collective negotiations" for purposes of appealing an award. Should we exercise jurisdiction over this appeal, the County acknowledges that our review would be under the substantive criteria and standards of the predecessor law.

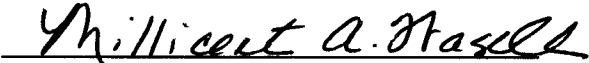
It would appear that we do not have jurisdiction over this appeal. The arbitration was conducted under the predecessor statute and the arbitrator issued an award applying the pre-amendment statutory criteria, as interpreted by the courts. The reform act amended the statutory criteria and granted us jurisdiction to determine whether an arbitrator has failed to apply those criteria. There does not appear to be any direct authority for us to review awards issued under the old criteria. In addition, it appears more logical to interpret the exception for formal arbitration proceedings where testimony was taken before the Act's effective date to include all subsequent steps in such proceedings, including appeals.

Denial of jurisdiction at this time would not prejudice the County's ability to file an appeal in the Superior Court.

ORDER

The appeal of IA-95-35 is dismissed.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Acting Chair

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

DATED: Trenton, New Jersey
April 25, 1996
ISSUED: April 26, 1996