

P.E.R.C. NO. 93-67

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC COUNTY COMMUNITY COLLEGE,

Respondent,

-and-

Docket No. CO-92-352

OPEIU, LOCAL 153,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants a motion for reconsideration of P.E.R.C. No. 93-54. In that decision, the Commission sustained a decision of the Director of Unfair Practices refusing to issue a Complaint against Passaic County Community College. OPEIU's charge had alleged that the College unilaterally changed the pay rate of negotiations unit members when it changed the divisor used to divide annual salaries into per diem wage rates. The Commission held that whether employees are paid rates as set forth in the contract, or some other rate, this dispute over negotiated salaries must be resolved through the negotiated grievance procedure. Submission of a prior contract on reconsideration does not alter that judgment. The Commission therefore sustains the Director's refusal to issue a Complaint.

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Appearances:

For the Respondent, Michael Yosifon, Vice President for  
Business and Finance

For the Charging Party, Schneider, Goldberger, Cohen,  
Finn, Solomon, Miceli, Leder & Montalbano, attorneys  
(Bruce D. Leder, of counsel)

DECISION AND ORDER

On January 13, 1993, OPEIU Local 153 moved for reconsideration of P.E.R.C. No. 93-54. In that decision, we sustained a decision of the Director of Unfair Practices refusing to issue a Complaint against Passaic County Community College. OPEIU's charge had alleged that the College unilaterally changed the pay rate of negotiations unit members when it changed the divisor used to divide annual salaries into per diem wage rates.

Before April 1992, the College used 260 as the divisor. After April 1992, the College changed the divisor to reflect the number of actual work days in the year so that the annual salary would not be exceeded. We found that the charge simply alleged that

the College changed some agreed-upon wage rates when it changed the divisor. We believed that the dispute over negotiated salaries must be resolved through the negotiated grievance procedure.

Based on the record before us, we noted that the salary ranges in the contract's appendix were not ranges at all. The appendix listed specific rates for groups of titles while labeling them salary ranges. OPEIU now tells us that a prior contract's appendix listed minimum and maximum salaries and called them salary ranges. The current contract lists only the entry level salaries, notwithstanding the fact that they are still labeled salary ranges. OPEIU claims that actual salaries are not set by the contract and that employees are paid somewhere in excess of the minimum. It further claims that there is no contractual provision regarding the divisor; the divisor was established as a negotiated agreement, although not a contractual one.

On January 19, 1993, the College filed a reply opposing reconsideration. It argues that there is no evidence that the parties agreed to exceed annual base salaries in years having 261 or 262 work days. It claims that the use of a constant divisor of 260 days was a mistake leading to overpayments.

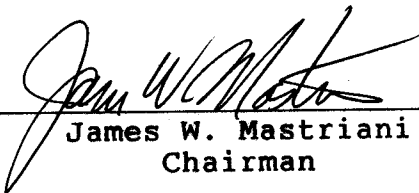
We grant reconsideration to consider the prior contract submitted by OPEIU. Nevertheless, we still sustain the refusal to issue a Complaint. In our original decision, we stated that whether employees are paid rates as set forth in the contract, or some other rate, this dispute over negotiated salaries must be resolved through

the negotiated grievance procedure. State of New Jersey (Dept. of Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984). The submission of the prior contract does not alter that judgment.

ORDER

The motion for reconsideration is granted. The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo, Regan and Smith voted in favor of this decision. None opposed. Commissioner Wenzler was not present.

DATED: February 22, 1993  
Trenton, New Jersey  
ISSUED: February 23, 1993