

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Appellant,

-and-

Docket No. IA-97-82

NEWARK FIRE DEPUTY CHIEFS'
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve negotiations between the City of Newark and Newark Fire Deputy Chiefs' Association. The City appeals the award and asks the Commission to remand the case back to arbitration. In formulating an award, an arbitrator must state what statutory factors he or she considered most important, explain why they were given significant weight, and explain how other evidence or factors were weighed and considered in arriving at a final award. The Commission concludes that the arbitrator here fully complied with these requirements and, because he did, the City must offer a particularized challenge to his analysis and conclusions. Aside from its objections to the senior pay aspect of the award, the City has not done so and the arbitrator's conclusions are supported by substantial credible evidence in the record. As for the senior pay issue, the Commission rejects the City's position that the award is necessarily deficient because the arbitrator did not calculate the cost to the City of maintaining a system that would result in employees obtaining senior pay salaries outside the four years covered by the award.

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.

P.E.R.C. NO. 99-97

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CITY OF NEWARK,

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NEWARK FIRE DEPUTY CHIEFS' ASSOCIATION,

Respondent.

Appearances:

For the Appellant, Michelle Hollar-Gregory, Corporation Counsel, attorney (Richee-Lori Smith, of counsel)

For the Respondent, Zazzali, Zazzali, Fagella & Nowak, attorneys (Paul L. Kleinbaum, of counsel)

DECISION

The City of Newark appeals from an interest arbitration award involving a seven-member unit of deputy fire chiefs. See N.J.S.A. 34:13A-16f(5)(a). It asks us to remand the award back to arbitration.

The arbitrator resolved the unsettled issues by conventional arbitration, as he was required to do absent the parties' agreement to use another terminal procedure. N.J.S.A. 34:13A-16d(2). The parties' final offers were as follows:

The City proposed a three-year contract for 1996 through 1998. For deputy fire chiefs appointed after January 1, 1992 (referred to as "non-grandfathered" deputy chiefs), the City proposed, for 1996, a \$70,872 salary for those deputy chiefs not entitled to senior pay and a \$71,945 salary for those who were

entitled to this benefit, as a result of having served five years as deputy chief. For 1997 and 1998, the City proposed salaries of \$74,643 and \$77,442, respectively, for all non-grandfathered deputy chiefs, with no senior pay. These proposed salaries represented 3.75% increases for 1996 and 1998 and, since none of the non-grandfathered employees were entitled to the 1996 senior pay salary, a 5.32% increase for 1997. For grandfathered employees, all of whom were at the senior pay step under the predecessor contract, the City proposed 3.75% increases for 1996, 1997, and 1998. The City also proposed that, for all deputy chiefs, three of their contractual holidays would, effective January 1, 1998, be credited toward compensatory time.

The Association proposed a four-year contract from 1996 through 1999. Its final salary offer consisted of a four-year salary guide with four steps, including a senior pay step. For grandfathered employees, the salary guide would result in 5.5% increases for 1996 and 1997 and 4.5% increases for 1998 and 1999. The Association proposed that non-grandfathered employees be placed on step one of the proposed guide in 1996 and that they receive, with increments, increases of 5.5%, 8.9%, 7.8% and 7.7% for 1996 through 1999, respectively. The Association also proposed that deputy chiefs receive senior pay at the beginning of the fourth year in rank instead of, as under the predecessor contract, at the beginning of the sixth year. Under the Association's proposed salary guide, all deputy chiefs --

grandfathered and non-grandfathered -- would be at the same salary step in 1999. Finally, the Association sought a \$53 increase in hazardous duty pay for 1996 and \$25 increases for 1997 and 1998.

The arbitrator awarded a four-year contract for 1996 through 1999. For grandfathered deputy chiefs, he awarded increases of 3.75% for 1996 and 1997 and 4.5% increases for 1998 and 1999. For non-grandfathered deputy chiefs, the arbitrator stated that he awarded 5.5% increases for 1996 and 1997 and 4.5% increases for 1998 and 1999 (Arbitrator's op., pp. 33, 40, 49).^{1/} In addition, the award provided that non-grandfathered officers were entitled to senior pay at the beginning of their fifth year of service and included a senior pay salary for those unit members although, as discussed below, none of the non-grandfathered deputy chiefs would be entitled to that salary until 2001 (Arbitrator's op., pp. 40, 41). Finally, the arbitrator awarded the Association's hazardous duty pay proposal (Arbitrator's op., p. 50).

The City appeals, contending that, in including a senior pay step for non-grandfathered employees, the arbitrator did not take into account the City's severe and chronic economic problems or the continuity and stability of employment, N.J.S.A. 34:13A-16g(6) and (8). It also argues that the arbitrator did not calculate the cost of the senior pay step for non-grandfathered

^{1/} The award provides that the 1996 salary is effective May 1996.

deputy chiefs and exceeded his powers, and therefore violated N.J.S.A. 2A:24-8d, by including a pay step that will not affect any employee until 2001 - after the agreement he awarded expires. It asks us to remand the award back to arbitration.^{2/} Finally, in addition to its objections to the senior pay aspect of the award, the City appears to argue that its offer was more reasonable than the Association's and should have been awarded.

The Association counters that the arbitrator properly considered all of the statutory criteria, including the financial impact of the award, and denies that the arbitrator exceeded his authority by retaining a senior pay step for non-grandfathered unit members. It emphasizes that both parties' final offers included a senior pay step and that, given the parties' proposals, the arbitrator had the authority to award a new eligibility guidepost for senior pay. Finally, it contends that the arbitrator complied with N.J.S.A. 34:13A-16d(2) in calculating the costs of the award.

In requiring that disputes be resolved by conventional arbitration unless the parties agree to another terminal procedure, the Reform Act entrusts the arbitrator with weighing the evidence and fashioning an award. An arbitrator must assess the evidence on the individual statutory factors and then weigh and balance the relevant, sometimes competing, factors. In

^{2/} It also requests oral argument. We deny that request because the parties' briefs fully address the issues.

reviewing a challenge to an award, we will determine whether the arbitrator considered the criteria in N.J.S.A. 34:13A-16g and rendered a reasonable determination on the issues. Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997); N.J.A.C. 19:16-5.9. Consistent with pre-Reform Act case law, we will vacate an award if the appellant demonstrates that: (1) the arbitrator failed to give "due weight" to the section 16g factors judged relevant to the resolution of the specific dispute; (2) the arbitrator violated the standards in N.J.S.A. 2A:24-8 and -9; or (3) the award is not supported by substantial credible evidence in the record as a whole. Borough of Allendale, P.E.R.C. No. 98-123, 24 NJPER 216 (¶29103 1998); Middlesex Cty., P.E.R.C. No. 98-46, 23 NJPER 595 (¶28293 1997); Cherry Hill Tp.; cf. PBA Local 207 v. Bor. of Hillsdale, 137 N.J. 71, 82 (1994); Division 540, Amalgamated Transit Union, AFL-CIO v. Mercer Cty. Improvement Auth., 76 N.J. 245, 253 (1978).

In applying this review standard, we are mindful that fashioning an interest arbitration award is not a precise mathematical process. Borough of Lodi, P.E.R.C. No. 99-28, 24 NJPER 466 (¶29214 1998); Allendale. Given that the statute sets forth general criteria rather than a formula, the setting of wage figures necessarily involves the exercise of judgment, discretion and labor relations expertise. Lodi; Allendale. While an arbitrator must explain the basis for an award, we recognize that he or she will rarely be able to conclusively demonstrate that an

award is the only "correct" one. Lodi; Allendale. Therefore, within the parameters of our review standard, we will not disturb the arbitrator's exercise of discretion in weighing and analyzing the evidence and fashioning an award. Cherry Hill.

The primary issue in this dispute was salary increases, with the parties disagreeing over the amount of annual salary increases; whether to maintain a two-tiered salary guide for non-grandfathered and grandfathered employees; and the appropriate differential between deputy chiefs and their immediate subordinates, battalion chiefs. In arriving at his award, the arbitrator carefully reviewed and analyzed all the statutory criteria. For example, in discussing the public interest and welfare, N.J.S.A. 34:13A-16g(1), he found that the number of structural fires in the City had increased between 1994 and 1997 and that the increased workload was performed by a smaller number of deputy fire chiefs than in 1994 (Arbitrator's op., p. 24). He also recognized that the City had a "planned program" designed to limit the cost of its uniformed services so that it could both preserve and enhance other City services and maintain as low as possible a tax rate for a population plagued with high unemployment and low per capita income (Arbitrator's op., p. 25). In reviewing the overall compensation criterion, N.J.S.A. 34:13A-16g(3), the arbitrator found that the unit enjoyed an outstanding overall compensation package, except for an inadequate differential between the pay of the highest paid battalion chief

and the lowest paid deputy chief (Arbitrator's op., p. 37). In formulating his award and analyzing the comparability criterion, N.J.S.A. 34:13A-16g(2), the arbitrator considered and gave "significant" weight to private sector wage increases, and "great" weight to the City's settlements with its other uniformed public safety units and to the salaries of deputy fire chiefs in the other "big six" cities in New Jersey (Arbitrator's op., pp. 28, 48).^{3/} He also considered average interest arbitration awards and settlements statewide, as well as the increases received in public employment in general (Arbitrator's op., pp. 28-30, 33-35). In awarding increases in between the parties' offers, he reasoned that:

[T]he Association proposal exceeds the rate of increase in the cost of living, exceeds the average of current wage increases, exceeds the rate of increase in the private sector and the rate of increase in the other uniformed service agreements negotiated with the City of Newark. On the other hand, the City proposal would decimate the differential between the non-grandfathered Deputy Fire Chiefs and the Battalion chiefs because it is proposing for all Deputy Fire Chiefs a lesser percentage increase than was negotiated for Fire Officers for 1996, 1997 and 1998. [Arbitrator's op., p. 26]

Further, in fixing the salary increases that he did, the arbitrator stated:

In consideration of the financial constraints faced by the City, including unemployment, poverty, loss of State Aid, low per capita income

^{3/} The "big six" cities are Newark, Camden, Paterson, Jersey City, Elizabeth and Trenton.

and loss of revenue due to reassessments, the undersigned has utilized percentage salary increases which the City has negotiated with the other uniformed services, apparently with full recognition of its limited economic resources and its goal of providing better services to the residents and taxpayers of the City of Newark. [Arbitrator's op., pp. 39-40]

The 3.75% increases that the arbitrator awarded to grandfathered deputy chiefs for 1996 and 1997 corresponded to the percentage increases proposed by the City as well as to the increases included in its agreement with the deputy police chiefs for 1996 and 1997. The agreement with the deputy police chiefs expired in 1997 and, for 1998 and 1999, the arbitrator awarded 4.5% increases, the same increases included in the City's agreement with the police superiors for those years (Arbitrator's op., pp. 33, 40).

For the non-grandfathered deputy chiefs, the arbitrator retained the two-tier salary guide for the term of the agreement and "followed the City's suggestion that all four non-grandfathered Deputy Fire Chiefs move to a 'one step for all status' for January 1, 1997 and January 1, 1998" (Arbitrator's opinion, p. 40). However, the arbitrator awarded a senior pay salary as of the 5th year of service. That senior pay salary is the same as the 1999 salary for grandfathered deputy chiefs. The 5.5% increases awarded for 1996 and 1997, as well as the 4.5% increase for 1998, corresponded to the increases included in the City's agreement with its fire officers, which expired in 1998

(Arbitrator's op., pp. 33, 40).^{4/} The 4.5% increase for 1999 was the same as the increase awarded to the police superiors' unit for that year (Arbitrator's op., p. 33). These increases resulted in 1998 salaries that, for both grandfathered and non-grandfathered unit members, are lower than the average 1998 deputy fire chief salary in the "big six" municipalities that both parties maintained were comparable (Arbitrator's op., pp. 32, 41).

In assessing the financial impact of the award, section 16g(6), the arbitrator completed a detailed cost analysis of the four-year award, noting that, for the first three years, it would cost \$29,606 more than the three-year contract offered by the City and that the payroll costs for the unit for 1997 through 1999 would be lower than in 1996, the first year of the award, because there were fewer deputy chiefs and some unit members had retired and been replaced with new, lower-paid appointees (Arbitrator's op., p. 46). The arbitrator also calculated the differential between battalion chiefs and grandfathered and non-grandfathered deputy chiefs for the first three years of the award, stating that it increased from 2.73% to 4.55% under the award, as opposed to declining from 2.73% to .13% (or \$104) under the City's offer.^{5/} While the arbitrator noted that the other "big 6"

^{4/} The 1997 increase was also very close to the 5.32% increase proposed by the City.

^{5/} The differential would have increased from 2.73% to 9.43% under the Association's proposal (Arbitrator's op., p. 44).

municipalities had substantially higher differentials, he stated that the award improved the differential modestly, both because of the fiscal constraints faced by the City and the small differential between police deputy chiefs and their highest-paid immediate subordinates (Arbitrator's op., pp. 37, 45).

The arbitrator also considered the cost of the award in the context of the City's 1998 budget of \$440,995,000 and concluded that the Cap law did not impede funding it (Arbitrator's op., p. 46). He reasoned that, because the workload was being adequately handled by a smaller staff, the unit had effectively contributed to the budget and had thereby helped the City defray expenses and enhance services to taxpayers and residents (Arbitrator's op., p. 46). He concluded that the award for this seven-member unit was unlikely to influence the negotiations pattern for the other, much larger uniformed units and that, in any event, the award drew on the existing pattern of settlements (Arbitrator's op., pp. 46-47). He found the award would have a modest financial impact on the City's residents and taxpayers and would improve the continuity and stability of employment, N.J.S.A. 34:13A-16 g(8), by addressing the differential problem (Arbitrator's op., p. 49). Finally, he observed that, while both parties proposed annual salary increases higher than the rate of inflation, the City's offer was closer to the current inflation rate and, therefore, the cost of living was one factor that led him to fashion an award closer to the City's offer than to the Association's (Arbitrator's op., p. 38).

The City does not specifically challenge the arbitrator's thorough findings or careful analysis, but does argue generally that its offer was more reasonable and should have been awarded. It also contends that the arbitrator exceeded his authority by awarding a senior pay salary for non-grandfathered employees that neither party contemplated. We reject these arguments.

The salary guide for non-grandfathered employees in the predecessor contract had a senior pay salary step for 1993 through 1995. The City's final offer included a salary schedule for non-grandfathered employees that retained the senior step for 1996 - even though none of the non-grandfathered unit members employed at the time of the arbitration proceeding would be eligible for that salary until 2002 (Arbitrator's op., pp. 3, 23). The City proposed to eliminate senior pay for 1997 and future years, but the Association proposed that unit members become eligible for senior pay in their fourth year of service.^{6/} In this posture, the arbitrator plainly stayed within the parameters of the parties' offers when, in fashioning a conventional award, he retained the existing senior pay step for non-grandfathered unit

^{6/} The City's final offer proposed that, beginning in 1997, there would be only one salary for all non-grandfathered deputy chiefs, regardless of their years of service. While the City characterized this at one point as "eliminating" senior pay, at other times it indicated that it was "granting" senior pay as of 1997, because it proposed that all non-grandfathered deputy chiefs would receive, in 1997, the 1996 senior pay salary it had proposed, plus a 3.75% increase (Arbitrator's op., pp. 3, 26).

members and provided that they would be eligible for that salary at the beginning of their fifth year of service. Compare Cherry Hill Tp. (arbitrator could freeze salary for new hires because issue of appropriate starting salary was subsumed within parties' proposals for salary increases; however, he could not change the biweekly pay date when neither party had so proposed and that issue could not be said to be reasonably subsumed within any proposal).

We also disagree that the arbitrator exceeded his authority by awarding a senior pay salary that will not affect any unit member until after the expiration of the agreement that he awarded. An arbitrator has the statutory authority to award a compensation and benefits package, and salary structure, for a negotiations unit. He does not exceed his authority because some elements of that package or salary structure may not apply to any individual employee during the term of the agreement. In our experience, negotiated settlements and interest arbitration awards often include such provisions. For example, an award granting a longevity benefit for 25 years of service may not affect any employee during the contract term if no employee attains the requisite years of service. Similarly, an award capping or eliminating longevity or terminal leave benefits for new hires may not affect any individual employee if no new employees are hired. Given that the parties to an interest arbitration proceeding have an ongoing relationship, we find no prohibition against such

provisions, which are part of the compensation and benefits structure that will govern the parties' future relationship absent subsequent agreements or awards. An interest arbitrator is not required to eliminate an existing employment condition or salary provision simply because current employees will not be affected by the provision within the life of the contract.^{7/}

Similarly, we reject the City's position that the award is necessarily deficient because the arbitrator did not calculate the cost to the City of maintaining a senior pay system that, absent a new agreement or award, would result in individual employees obtaining senior pay salaries in 2001.

N.J.S.A. 34:13A-16d(2) directs that an arbitrator "shall separately determine whether the total net annual economic changes for each year of the agreement are reasonable" under the criteria in 16g (emphasis added). In Rutgers, the State Univ., P.E.R.C. No. 99-11, 24 NJPER 421, 424 (¶29195 1998), we held that an arbitrator satisfies N.J.S.A. 34:13A-16d(2) if he or she

^{7/} City Ass'n of Supervisors and Administrators v. State Operated School Dist. of Newark, 311 N.J. Super. 300 (App. Div. 1998), relied on by the City, is inapt. The Court there held that a grievance arbitration panel exceeded its authority when it ignored unambiguous contract language concerning the manner in which vacation days were earned, did not comply with the provisions of the agreement, and required the State-operated district to continue a past practice inconsistent with the public interest. The City does not state how Newark applies to this matter, where the interest arbitrator has the authority to fashion an award after considering all the statutory factors, including the public interest.

identifies what new costs will be generated in each year of the agreement and figures the change in costs from the prior year rather than from the beginning of the contract. Based on the underscored language, we rejected the employer's argument that 16d(2) required an arbitrator to calculate the "cumulative costs" of an award.^{8/} A similar analysis pertains here.

Because 16d(2) directs an arbitrator to calculate the costs for each year "of the agreement," it does not automatically require the arbitrator to identify costs (or savings) that may flow from the existing salary structure after the agreement expires. Those costs can be taken into account by the parties in future negotiations and must be taken into account by an interest arbitrator in future interest arbitration proceedings. While the future costs of an existing salary system may sometimes be relevant to assessing the financial impact of an award, the City has not shown that the arbitrator's analysis of the financial impact criterion is flawed because he did not assess the potential future costs of the senior pay step. See Rutgers (cumulative costing may sometimes be relevant but employer did not show how the cumulative costs of the award undermined the arbitrator's financial impact analysis). We further note that the potential

^{8/} Under this method, the cost for, e.g., year three of an award, would be the cost attributable to that year, plus the repeating costs of the salaries and benefits awarded for years one and two.

costs arising from the difference between what employees will receive if the specified senior pay salary remains unchanged and what employees would otherwise receive cannot be quantified without speculation. Unit employees will not be entitled to the senior pay salary until May 2001, at which point a new contract addressing salaries for 2000 and 2001 may have increased the base salary for non-grandfathered deputy chiefs to a level equal or exceeding that of the senior pay salary included in this award. In that case, this senior pay salary will have no cost impact unless the new contract also adjusts the senior pay salary. Moreover, we note that the predecessor contract provided for senior pay after six years of service and that if the arbitrator had retained that structure and included a senior pay salary in his award, post-award costs could also have been incurred.

We emphasize that the senior pay step to which the City objects is only one part of an award that, while in between the parties' offers, was closer to the City's proposal than to the Association's (Arbitrator's op., p. 38). It affects only four non-grandfathered deputy chiefs (Arbitrator's op., p. 49) and its delayed effect minimizes rather than exacerbates the financial impact: the City can plan for it well in advance and develop its salary budget and future negotiations strategy in light of it.

Further, we are not persuaded that the arbitrator awarded the senior step without considering 16g(6), which requires an arbitrator to take into account, to the extent evidence is

introduced, the impact of an award on a governing body's ability to maintain, expand or initiate programs or services, the percentage of the budget required to fund the award as compared to the percentage required to fund the employees' contract in the preceding year, and the impact of the award on different income levels of taxpayers. By the plain terms of the statute, these items must be considered only to the extent evidence is presented. Middlesex Cty. While the City states that the senior step will require it to either reduce services or raise taxes, it makes no particularized showing as to how the senior step will affect its budget or its ability to carry out current or planned programs. We stress that the predecessor contract included senior pay for non-grandfathered deputy chiefs after six years of service and that the City does not point to any evidence that the arbitrator did not consider how retention of a senior pay step would affect the City's ability to carry out current or planned programs.

We appreciate the City's arguments that, under Hillsdale, an interest arbitration award must be based on more than a municipality's "ability to pay" and that, given the size of its budget and this unit, additional funds could always be identified to fund an award. But Hillsdale and related cases criticized arbitrators for awarding union offers in their entirety based on a determination that a municipality could raise money to pay a salary increase. Hillsdale, 137 N.J. at 86. That was not the

approach of this arbitrator. He considered all the statutory factors and fashioned a conventional award that was designed to recognize the City's fiscal constraints while also increasing the differential between the highest-paid battalion chiefs and lowest-paid deputy chiefs (Arbitrator's op., p. 49). Total payroll costs will decline over the term of the award and, in the context of a \$440 million budget, the first three years of the award exceed the City's three-year offer by \$29,606. Absent more specific arguments by the City, we find that the arbitrator's conclusion that the award will have a modest financial impact on residents and taxpayers is supported by substantial credible evidence in the record. That conclusion is not undermined by the fact that maintaining the senior pay step may entail some post-award costs unless the step is eliminated or changed in future negotiations.

Finally, the City argues that the arbitrator did not consider the continuity and stability of employment in awarding a senior pay step. It maintains that deputy chief is a desirable position, that there are 25 battalion chiefs who are available to fill the position should any of the seven unit members retire, and that deputy chiefs have historically remained with the department for many years. In these circumstances, it contends that the award of the City's offer and elimination of senior pay would not have jeopardized the continuity and stability of employment.

The arbitrator recognized that the City had been able to maintain a competent and professional cadre of deputy chiefs and had attracted replacements (Arbitrator's op., p. 48). He further stated that, based on the evidence, he was unable to find that the award of either party's offer would significantly affect the continuity and stability of employment (Arbitrator's op., p. 47). But he also concluded that there was an inadequate differential between the highest-paid battalion chiefs and the lowest paid deputy chiefs and that that deficiency was "harmful to the perseverance of an appropriate chain of command and an obvious irritant and cause for deterioration of morale among the non-grandfathered Deputy Fire Chiefs" (Arbitrator's op., p. 37). The arbitrator's award increased that differential by awarding higher percentage increases for non-grandfathered as opposed to grandfathered deputy chiefs, and by awarding a senior pay salary that took effect after five years of service in rank. Retaining a senior pay step will presumably help maintain a differential even if the battalion chiefs, whose agreement expires in 1998, receive additional increases for 1999, 2000 and 2001. In considering 16g(8), the arbitrator concluded that the improvement of the differential would enhance the continuity and stability of "the various negotiations units in the Fire Department" (Arbitrator's op., p. 48).

The City does not dispute the arbitrator's analysis of the differential issue, which we find to be logically related to the

continuation of senior pay for non-grandfathered deputy chiefs. We conclude that the arbitrator fully considered the continuity and stability of employment in arriving at his award. We stress that that is the test, not whether the continuity and stability would necessarily have been jeopardized by awarding the City's offer. See Allendale (arbitrator will rarely be able to demonstrate that an award is the only "correct" one).


Finally, we turn to the City's contention that, given the statutory criteria, its offer was more reasonable than the Association's and should have been awarded. While the City appears to argue that a remand is required because of the across-the-board increases awarded as well as because of the senior pay aspect of the award, we reject that argument.

In formulating an award, an arbitrator must state what statutory factors he or she considered most important, explain why they were given significant weight, and explain how other evidence or factors were weighed and considered in arriving at a final award. The arbitrator here fully complied with these requirements and, because he did, the City must offer a particularized challenge to his analysis and conclusions. Lodi; Cherry Hill. Aside from its objections to the senior pay aspect of the award, the City has not done so and the arbitrator's conclusions are supported by substantial credible evidence in the record. We therefore affirm the award.

ORDER

The arbitrator's award is affirmed.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

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

DATED: April 29, 1999
Trenton, New Jersey
ISSUED: April 30, 1999