

P.E.R.C. NO. 2005-57

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PATERSON,

Respondent,
-and-

Docket No. CO-2003-269

PATERSON POLICE PBA LOCAL 1,

Charging Party.

CITY OF PATERSON,

Respondent,
-and-

Docket No. CO-2003-270

PATERSON POLICE PBA LOCAL 1,
SUPERIOR OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants the City of Paterson's motion for summary judgment and dismisses consolidated complaints based on unfair practice charges filed by Paterson Police PBA Local 1 and Paterson Police PBA Local 1, Superior Officers Association. The charges allege that the City violated the New Jersey Employer-Employee Relations Act when the mayor unilaterally instituted a new policy prohibiting employees from accumulating more than 60 hours of compensatory time in a calendar year and requiring that all compensatory time must be taken by December 31 of the year in which the time was accumulated. The unions also jointly filed a grievance alleging a breach of contract arising out of the same facts as alleged in the unfair practice charges. An arbitrator ruled for the unions. The arbitrator's award was subsequently vacated and the Order was upheld by the Appellate Division. The Commission holds that where an appellate court has determined that the employer had a contractual right to act unilaterally, deferral and summary judgment are appropriate. The Commission holds that the courts have determined that not only did the employer not violate the contract, but that the contract authorized the employer's unilateral action.

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. 2005-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2005-045

AFSCME, COUNCIL 73, LOCAL 2286,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by AFSCME Council 73, Local 2286. The grievance contests the denial of an employee's application for appointment to a promotional position. The Commission concludes an employer cannot be required to make a promotion when no suitable candidate exists, nor can an employer be barred from filling a vacancy with a qualified outside applicant. The Commission holds that this grievance is not legally arbitrable.

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P.E.R.C. NO. 2005-59

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2005-041

P.B.A. LOCAL NO. 11, TRENTON
SUPERIOR OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Trenton for a restraint of binding arbitration sought by P.B.A. Local No. 11, Trenton Superior Officers Association. The Association seeks to arbitrate disciplinary transfers, allegedly made in violation of statutes and regulations and without following appropriate procedures. The Commission holds that reassignments and transfers of police officers may not be submitted to arbitration even if the alleged transfer or reassignment is disciplinary. The Commission further holds that no severable procedural issues have been identified.

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P.E.R.C. NO. 2005-60

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2005-043

P.B.A. LOCAL NO. 11, TRENTON
SUPERIOR OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Trenton for a restraint of binding arbitration sought by P.B.A. Local No. 11, Trenton Superior Officers Association. The Association seeks to arbitrate shift changes made in the Vice Enforcement unit and for certain deputy chiefs. The Commission holds that public employers have a prerogative to determine hours and days during which a service will be operated and to determine the staffing levels at any given time. The Commission holds that a restriction on the City's right to change the Vice Enforcement Unit shift and to change the shifts of officers to coincide with their assignments would substantially limit the City's governmental policies associated with having an effective vice enforcement unit and of having officers work the shifts of the unit to which they are assigned.

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P.E.R.C. NO. 2005-61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 187,

Respondent,

-and-

Docket No. CI-2002-64

JAMES CIPRIANO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a Motion for Summary Judgment filed by PBA Local 187 seeking dismissal of a Complaint based on an unfair practice charge filed by James Cipriano. The charge alleges that the PBA violated the New Jersey Employer-Employee Relations Act when it failed to process and pursue Cipriano's grievance over alleged violations of departmental seniority. The Commission denies the motion because the parties have failed to support their factual assertions with certifications or affidavits. The Commission concludes that there may be no material facts in dispute in this case, but there is no factual record upon which to make that determination. The Commission denies the motion without prejudice to its refiling with proper supporting certifications and documents.

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P.E.R.C. NO. 2005-62

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

PUBLIC SECTOR MANAGERS ASSOCIATION,

Petitioner,

-and-

COMMUNICATIONS WORKERS OF AMERICA.

Petitioner.

Docket Nos. RO-2004-051

RO-2004-098

RO-2004-099

RO-2005-004

SYNOPSIS

The Public Employment Relations Commission grants the request of the State of New Jersey for special permission to appeal a Notice of Hearing issued by the Acting Director of Representation. The Commission grants special permission to appeal given the complexity, magnitude, and unusual nature of this case. However, the Commission affirms the issuance of the Notice of Hearing, finding that the Acting Director properly exercised her authority and discretion in managing this complicated case and in deciding to hold hearings rather than to continue an administrative investigation.

The Commission also approved the Acting Director's decisions to appoint a Chief Hearing Officer to coordinate the hearings, to assign several hearing officers to conduct hearings on individual titles, and to use ad hoc hearing officers as well as staff members in an effort to expedite the hearing process.

Finally, the Commission does not consider the State's request for a stay of the scheduled hearings since that schedule has lapsed, nor does it consider the parties' arguments concerning the assignments of particular staff or ad hoc hearing officers or the operational problems the employer allegedly would have encountered in complying with the previous schedule. Concerns about assignments and scheduling can be presented to and evaluated by the Chief Hearing Officer before he establishes a new schedule of hearings.

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