

P.E.R.C. NO. 2003-11

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF TEANECK,

Appellant/Cross-Respondent,

-and-

Docket No. IA-97-45

TEANECK FIREMEN'S MUTUAL  
BENEVOLENT ASSOCIATION,  
LOCAL NO. 42

Respondent/Cross-Appellant.

SYNOPSIS

The Public Employment Relations Commission remands an interest arbitration matter to the arbitrator to determine whether the award of the 24/72 work schedule to this unit would impair supervision and, if so, whether, based on all the circumstances there are compelling reasons to award the schedule that outweigh any supervision concerns. The Commission does so pursuant to an Appellate Division decision affirming in part and reversing and remanding in part the Commission's decision in P.E.R.C. No. 2000-33. The Court reversed and remanded the portion of the Commission's decision modifying the arbitrator's award to state that the 24/72 shall not be implemented for the firefighters "unless the 24/72 schedule is agreed to, or awarded, with respect to the fire officers' unit."

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 Township, Peckar & Abramson, P.C.,  
attorneys (David Lew and Jeffrey M. Daitz, of counsel)

For the FMBA, Fox & Fox, LLP, attorneys (David I. Fox and  
Deborah A. Young, of counsel)

DECISION

On July 16, 2002, the Appellate Division affirmed in part and reversed and remanded in part our decision in Teaneck Tp. and Teaneck FMBA Local No. 42, P.E.R.C. No. 2000-33, 25 NJPER 450 (130199 1999). The Appellate Division affirmed those parts of the decision that upheld the arbitrator's award of a 24/72 schedule on a trial basis and his award of a stipend for those firefighters with an EMT certification. Teaneck Tp. and Teaneck FMBA Local No. 42, \_\_\_ N.J. Super. \_\_\_ (App. Div. 2002). The Court also affirmed our decision sustaining the Director of Arbitrator's decision to accept the withdrawal of the first interest arbitrator appointed in the case. However, the Court reversed and remanded that portion of the decision modifying the arbitrator's award to state

that the 24/72 shall not be implemented for the firefighters "unless the 24/72 schedule is agreed to, or awarded, with respect to the fire officers' unit." 25 NJPER at 460.

That modification was linked to our articulation of the standards arbitrators should apply in considering proposals for a major work schedule change, including proposals that would result in supervisors being on a different work schedule from the employees they supervise. We stated:

[A]n arbitrator may award such a proposal only if he or she finds that the different work schedules will not impair supervision or that, based on all the circumstances, there are compelling reasons to grant the proposal that outweigh any supervision concerns. Teaneck, 25 NJPER at 455.

The Court found no error in our establishing this standard, but did find that the implementation delay was arbitrary and unreasonable. It also concluded that we exceeded the scope of our review by foreclosing the arbitrator from applying our standard to his factual findings. It ordered us to remand this matter to the same arbitrator for evaluation of proofs and factual findings in light of our standard.


Accordingly, we direct the arbitrator to consider whether award of the work schedule to this unit would impair supervision and, if so, whether based on all the circumstances, there are compelling reasons to award the schedule that outweigh any

supervision concerns.<sup>1/</sup> As specified in the Court's opinion, the arbitrator may consider receipt of additional testimony or other evidence if he deems it necessary or appropriate.

ORDER

This matter is remanded to the arbitrator to determine whether award of the 24/72 work schedule to this unit would impair supervision and, if so, whether, based on all the circumstances there are compelling reasons to award the schedule that outweigh any supervision concerns.

BY ORDER OF THE COMMISSION

  
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Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, Katz, McGlynn and Ricci voted in favor of this decisions. Commissioner Muscato voted against this decision. Commissioner Sandman was not present.

DATED: July 25, 2002  
Trenton, New Jersey  
ISSUED: July 26, 2002

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<sup>1/</sup> The FMBA requests input into this stage of the reversal and remand. We deny that request. The Court's direction is straightforward.