

P.E.R.C. NO. 2012-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HUDSON COUNTY PROSECUTOR'S
OFFICE,

Petitioner,

-and-

Docket No. IA-2009-059

PBA LOCAL 232,

Respondent.

SYNOPSIS

The Public Employment Relations Commission remands an interest arbitration award for clarification of the arbitrator's salary guide calculations. The Hudson County Prosecutor appealed the award alleging the arbitrator's calculations are inaccurate. The PBA responds that the award is correct. The Commission remands the dispute to the arbitrator for clarification.

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 Petitioner, Scarinci & Hollenbeck, attorneys
(Sean D. Dias, of counsel)

For the Respondent, Lindabury, McCormick, Estabrook &
Cooper, attorneys (Donald B. Ross, of counsel)

DECISION

On December 23, 2011, the Hudson County Prosecutor appealed from an interest arbitration award involving a unit of approximately 74 investigators represented by PBA Local No. 232. The arbitrator issued a conventional award, as he was required to do absent the parties' agreement to use another terminal procedure.^{1/} A conventional award is crafted by an arbitrator after considering the parties' final offers in light of nine statutory factors. The County is only appealing section nine of the award which is the salary guide. Specifically, it asserts

^{1/} Effective January 1, 2011, P.L. 2010, c. 105 eliminated all other methods of interest arbitration and only provides for conventional arbitration.

that the arbitrator's calculations are inaccurate as to the actual cost of the new salary guide as well as other arguments related to the award of the guide.

The PBA responds that the County's calculations are incorrect; points to evidence supporting the arbitrators calculations; and asserts that the County is mistaken in its interpretation of the award.

Because the parties have conflicting interpretations of the meaning of the salary award, we find it necessary to remand the salary issue to the arbitrator for further explanation.^{2/} Any appeal from the arbitrator's supplemental award must be filed within seven days of receipt of the award. We caution the parties that an interest arbitration appeal is not an opportunity to re-argue their case, but must comply with our review standard.^{3/}

^{2/} Both parties have served their briefs on the arbitrator, so he is informed as to their conflicting interpretations.

^{3/} We will not vacate an award unless the appellant demonstrates that: (1) the arbitrator failed to give "due weight" to the subsection 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. Teaneck Tp. v. Teaneck FMBA, Local No. 42, 353 N.J. Super. 298, 299 (App. Div. 2002), *aff'd* o.b. 177 N.J. 560 (2003), citing Cherry Hill Tp., P.E.R.C. No. 97-119, 23 NJPER 287 (¶28131 1997).

ORDER

This matter is remanded to the arbitrator to issue a supplemental opinion and award within 45 days.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel and Voos voted in favor of this decision. None opposed. Commissioner Wall recused himself.

ISSUED: January 26, 2012

Trenton, New Jersey