

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

CAMBRIA COUNTY DEPUTY :  
SHERIFFS' ASSOCIATION :  
 : Case No. PERA-C-10-24-W  
v. :  
 :  
CAMBRIA COUNTY :

**FINAL ORDER**

Cambria County (County) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on January 13, 2010 to a Proposed Decision and Order (PDO) issued on December 28, 2011, in which the Hearing Examiner concluded that the County did not violate Section 1201(a)(1), (5) and (8) of the Public Employee Relations Act (PERA). The Cambria County Deputy Sheriffs' Association (Association) filed a timely brief in response to the exceptions on February 2, 2011.

The undisputed findings of fact of this case are as follows. On January 22, 2010, the Association filed a Charge of Unfair Practices alleging that the County unilaterally implemented an attendance policy changing the manner in which County employes may use sick leave and imposing discipline for policy violations, which was contrary to an interest arbitration award for the Association's bargaining unit of deputy sheriffs. At the December 1, 2010, hearing on the Charge, the parties stipulated that the Sheriff has not implemented the countywide attendance policy for the deputy sheriffs. Accordingly, the Hearing Examiner concluded that the County has not committed unfair practices within the meaning of Section 1201(a)(1), (5) or (8) of PERA.

The County does not challenge the Hearing Examiner's Findings of Fact or Conclusions of Law. Instead, the County takes issue with a sentence in the Discussion section of the PDO in which the Hearing Examiner states that "[t]he Sheriff's actions, therefore, have prevented the County from committing an unfair practice under Section 1201(a)(1), (5) or (8) with respect to the deputy sheriffs." (PDO at 2). This statement, however, is not a binding Finding of Fact or Conclusion of Law. The statement is clearly *dicta*. Moreover, as Discussion, it is not binding on the Hearing Examiner or the Board. The statement, stricken or not, does not affect the outcome of this case or the holding that the County did not commit an unfair practice. Therefore, the County's exceptions to the PDO shall be dismissed. Harbor Creek Education Association v. Harbor Creek School District, 16 PPER ¶16052 (Final Order, 1985) (where challenged statement in Discussion section of the PDO would not impact on the outcome of the case, the exception is properly dismissed).

After a thorough review of the exceptions and all matters of record, the Hearing Examiner did not err in concluding that the County has not committed unfair practices within the meaning of Section 1201(a)(1), (5) or (8) of PERA, and the December 28, 2010 PDO shall be made final.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by Cambria County are hereby dismissed, and the December 28, 2010 Proposed Decision and Order, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Anne E. Covey, Member, and James M. Darby, Member, this fifteenth day of February, 2011. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within order.