

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PENNSYLVANIA STATE TROOPERS ASSOCIATION :
:
v. : Case No. PF-C-04-65-E
:
COMMONWEALTH OF PENNSYLVANIA :
PENNSYLVANIA STATE POLICE :

FINAL ORDER

On May 17, 2005, the Pennsylvania State Troopers Association (Union) timely filed exceptions with the Pennsylvania Labor Relations Board (Board), to a Proposed Decision and Order (PDO) issued April 27, 2005. In the PDO, the Hearing Examiner concluded that the Commonwealth of Pennsylvania, Pennsylvania State Police (PSP) did not engage in unfair practices within the meaning of Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA) by issuing Section 5.05(A) of administrative regulation AR 10-5, on February 18, 2004, which provides, in pertinent part, that "[p]ersonnel shall not be paid for travel time to an event, except when approved by the Area Commander." (F.F. 4). On May 24, 2005, the Union timely filed its brief in support of exceptions in compliance with an extension granted by the Board Secretary.

In its exceptions, the Union contends that the Examiner erred by failing to make certain findings of fact and by dismissing the charge "for lack of proof that the Commonwealth changed the pay for members of the bargaining unit to travel to overtime assignments when it issued AR 10-5." (PDO at 2). The Hearing Examiner was required to set forth only those facts that were necessary to support his decision. He was not required to summarize all the evidence presented, make findings that are unnecessary or make findings that would support another decision, even if there is substantial evidence to support such findings. Page's Department Store v. Velardi, 464 Pa. 276, 346 A.2d 556 (1975). After reviewing the record and the PDO, the Board concludes that the Hearing Examiner indeed made those findings that were necessary to support his conclusions, that he did not omit any necessary findings and that none of the Union's proposed alternative findings are necessary to support the Hearing Examiner's conclusions.

A review of the record also reveals that the Examiner properly concluded that the Union failed to meet its burden of establishing a change in the payment policy for travel time to extra-duty assignments. AR 10-5 was modeled after the PSP construction zone program where private construction companies would pay the PSP for troopers to work at construction sites on Pennsylvania highways. (N.T. 27, 30). The construction zone projects were voluntary duty for the troopers, and they were paid from the time they arrived at the site to the time they left. (N.T. 29-30). The Union's witness testified that, prior to AR 10-5, some troopers received payment for travel time to extra-duty assignments and at other times they did not receive such payment. (N.T. 19-20). Captain Lutz testified that, since the beginning of the AR 10-5 program, some troopers receive payment for travel time to extra-duty assignments while others do not receive such payment. (N.T. 31). Although, under AR 10-5, an "area commander" has discretion to approve or deny payment for travel time, the record is clear that, prior to AR 10-5, a similarly situated ranking commander, possibly an "area commander", possessed authority to approve or deny the same. AR 10-5, therefore, did not change terms and conditions of employment when the PSP established a past practice of subjecting travel-time payments to ranking commander approval. Accordingly, the Union failed to meet its burden of proving that the issuance of AR 10-5 constituted a change in the payment policy for travel time to extra-duty assignments, which is a necessary element in the charge under consideration.

After a thorough review of the exceptions, brief in support, and all matters of record, the Board shall dismiss the exceptions and affirm the Hearing Examiner's

conclusion that the Commonwealth, Pennsylvania State Police did not engage in unfair labor practices in violation of Section 6(1)(a) and (e) of the PLRA.

ORDER

In view of the foregoing and in order to effectuate the policies of the Pennsylvania Labor Relations Act and Act 111 of 1968, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the Proposed Decision and Order in the above-captioned matter be and the same are hereby dismissed; and that the Proposed Decision and Order be and the same is hereby made absolute and final.

SIGNED, SEALED, DATED and MAILED this nineteenth day of July, 2005.

PENNSYLVANIA LABOR RELATIONS BOARD

L. DENNIS MARTIRE, CHAIRMAN

ANNE E. COVEY, MEMBER