

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

LITTLESTOWN BOROUGH POLICE OFFICERS ASSOCIATION :
:
v. : Case No. PF-C-06-128-E
:
LITTLESTOWN BOROUGH :

FINAL ORDER

The Littlestown Borough Police Officers Association (Association) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on December 18, 2006. The Association's Exceptions challenge a December 6, 2006 Proposed Decision and Order (PDO) finding that Littlestown Borough (Borough) did not violate Section 6(1)(a), (c) or (e) of the Pennsylvania Labor Relations Act (PLRA). On January 10, 2007, the Borough filed a response to the Association's exceptions and a supporting brief.

The Association filed a Charge of Unfair Practices on July 31, 2006 alleging that the Borough violated the PLRA by unilaterally changing the insurance coverage. A complaint was issued and a hearing was held on October 2, 2006. In the December 6, 2006 PDO, the Hearing Examiner found that the Borough did not commit an unfair labor practice because the health insurance coverage was never actually changed.

The factual background is briefly stated as follows: The parties are subject to a collective bargaining agreement which provides that the Borough shall provide members of the bargaining unit with "Capitol Blue Cross insurance, or equal ... The quality or amount of benefits provided to an officer shall not be changed without the consent of the Association, during the term of this contract." (Finding of Fact No. 2). On July 25, 2006, the Borough Council passed a motion to switch the health insurance for all Borough employees from Capitol Blue Cross to Highmark Blue Shield effective September 1, 2006. (Finding of Fact No. 3). On August 8, 2006, the Borough Council passed a motion rescinding the July 25, 2006 motion. Thus, the health insurance coverage for members of the Association never changed. (Finding of Fact Nos. 4 and 5).

The Association argues in its exceptions to the PDO that the Borough's alleged unilateral change of healthcare benefits should be found to be an unfair practice because the Borough did not bargain in good faith and because the Borough's actions "undermined" and "marginalized" the Association's position as the exclusive bargaining representative.

In Association of Pennsylvania State College and University Faculties v. Pennsylvania Labor Relations Board, 661 A.2d 898 (Pa. Cmwlth. 1995), petition for allowance of appeal denied, 542 Pa. 649, 666 A.2d 1058 (1995), the Commonwealth Court stated that: "A refusal to bargain charge will be dismissed as premature when the action at issue has not been implemented ..." See also, FOP, Queen City Lodge No. 10 v. City of Allentown, 19 PPER ¶ 19110 (Final Order, 1998) (the FOP's unfair labor practice charge that challenged a resolution of city council that would have removed bargaining unit work but which had not yet gone into effect was prematurely filed.)

We have carefully reviewed the exceptions and briefs in support and opposition to the exceptions and find that the Hearing Examiner correctly dismissed the charge of unfair practices because the health insurance was never actually changed. City of Allentown. Because the health insurance was never actually changed, there was no bargaining violation and thus no violation of Section 6(1)(a) or (e). With regard to the Association's allegation of a violation of Section 6(1)(c), which prohibits discrimination for engaging in any activity protected by the PLRA, the Association has shown no evidence that the Borough's motivation in passing the resolution was discriminatory. In fact, the resolution proposing to change the health insurance applied to all Borough employees, not just Association members. Thus, it is clear that there was

no discriminatory motive behind the Borough's actions when it passed the resolution. Therefore, the Association's exceptions are dismissed.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions and affirm the Hearing Examiner's conclusion that the Borough did not violate Section 6(1)(a), (c) or (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 by the Association are hereby dismissed, and the December 6, 2006 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 twenty-third day of January, 2007. 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.