

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

SALISBURY TOWNSHIP POLICE :  
OFFICERS ASSOCIATION :  
 :  
v. : Case No. PF-C-04-193-E  
 :  
SALISBURY TOWNSHIP :

**PROPOSED DECISION AND ORDER**

On November 29, 2004, the Salisbury Township Police Officers Association (Association or Complainant) filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) against Salisbury Township (Township or Respondent) alleging that the Township violated Sections 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA) and Act 111.

On January 12, 2005, the Secretary of the Board issued a complaint and notice of hearing in which the matter was assigned to a conciliator for the purpose of seeking resolution of the matters in dispute through mutual agreement of the parties and February 28, 2005 in Allentown was assigned as the time and place of hearing if necessary. The hearing was necessary, but was continued at the request of the complainant to allow the parties the opportunity to resolve the matter through their own discussions. On November 15, 2006, the complainant notified the Board that the matter remained unresolved and that a hearing was necessary. On January 26, 2007, the matter was scheduled for a hearing on March 27, 2007, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.

The examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

**FINDINGS OF FACT**

1. That Salisbury Township is an employer within the meaning of the Pennsylvania Labor Relations Act. (N.T. 9)
2. That Salisbury Township Police Officers Association is the exclusive, recognized bargaining representative for the unit consisting of all full-time and regular part-time township police officers pursuant to Act 111 of 1968 and the Pennsylvania Labor Relations Act. (N.T. 9)
3. That the part-time officers do not receive the same pay and benefits as the full-time officers. (N.T. 24)
4. That in 2004, there were three (3) part-time police officers. (N.T. 25, Respondent's Exhibit 3)
5. That the Township's Civil Service Rules and Regulations limit a part-time officer's employment to 1,250 hours per year. (N.T. 23, Respondent's Exhibit 2)
6. That the limit on part-time hours provision has been in the Civil Service Rules and Regulations since at least 1997 and was most recently recodified on July 24, 2003, when a revised version of the rules and regulations was issued. (N.T. 23)
7. That Gabriel Khalife has been the Township Manager since 1997. Each year, it is Khalife's practice to contact the chief of police in the middle of the year to determine if any of the part-time officers have the potential of exceeding the 1,250 hour limit. Khalife did this in 2004 as well. (N.T. 23-24)

8. That the Township's three part-time officers did not work close to 1,250 hours in 2002 or 2003. (N.T. 26, 27, Respondent's Exhibit 3)

9. That in 2004, the chief of police informed part-time officer Jeffrey Renninger that he was working enough hours that he would exceed the 1,250 hour limit by the end of the year. Renninger contacted the Association for assistance and this charge resulted. (N.T. 18, 25, 26-27, Respondent's Exhibits 1 and 3)

#### DISCUSSION

The Association's charge of unfair labor practices alleges that the Township has refused to bargain over the impact of a civil service rule limiting the number of hours a part-time police officers may work.

The rule in question has been in place for several years before the charge was filed. Therefore, a statute of limitations inquiry is appropriate. Section 9(e) of the PLRA provides that: "no petition or charge shall be entertained which relates to acts which occurred or statements which were made more than six weeks prior to the filing of the petition or charge." 43 P.S. § 217.9(e). The Complainant filed the charge on November 29, 2004, which is more than six weeks after the Township enacted the civil service rule, and thus would appear to be barred by the statute of limitations.

The complainant contends that the six weeks should run from October 19, 2004, when "the Township unilaterally promulgated a new policy restricting regularly scheduled part-time officers to no more than 1,250 hours per calendar year." (Specification of Charges, Paragraph 6). However, the Township presented credible testimony that the rule was promulgated well before October 19, 2004. Township Manager Gabriel Khalife testified that the rule was in place when he started as the manager ten years ago and that the rule was again published in July, 2003 when a revision to the civil service rules was adopted.

At the hearing, the Complainant argued that the rule was not enforced until October, 2004, which is how the Association first became aware of it. If a complainant can show that an employer suspends a rule and then later resumes enforcing the rule, the date of resumption can be used as the date to toll the statute of limitations. Fraternal Order of Police, Washington Lodge No. 17 v. City of Easton 20 PPER ¶ 20048 (Final Order, 1998). However, in the present case, the Complainant presented no evidence to show that the Township announced it was suspending enforcement of the rule or that it chose not to enforce the rule against some employees. On the other hand, the Township produced employment records (Respondent's Exhibit 3) showing that it was not until 2004 that part-time officers were coming close to working 1,250 hours. The records show that Officer Renninger, the complaining officer in this case, worked only 724 hours in 2002 and 539.5 hours in 2003. Thus, the evidence does not support an argument that the employer stopped, then resumed, enforcing the rule or, alternatively, that the employer chose not to enforce the rule against certain employees but later enforced it against others.

#### CONCLUSIONS

The examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. That the Township is an employer within the meaning of Section 3(c) of the PLRA.
2. That the Association is a labor organization within the meaning of Section 3(f) of the PLRA.
3. That the Board has jurisdiction over the parties hereto.
4. That the Association's charge is not timely within the meaning of Section 9(e) of the PLRA.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the examiner

HEREBY ORDERS AND DIRECTS

that the charge is dismissed and the complaint is rescinded.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98 within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania this tenth day of September, 2007.

PENNSYLVANIA LABOR RELATIONS BOARD

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THOMAS P. LEONARD, Hearing Examiner