

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

BUCKS COUNTY SECURITY :
GUARDS ASSOCIATION :
:
v. : Case No. PERA-C-07-265-E
:
BUCKS COUNTY :

FINAL ORDER

The Bucks County Security Guards Association (Association) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on November 3, 2008, from a Proposed Decision and Order (PDO) issued on October 15, 2008. Bucks County (County) filed a timely response to the exceptions on November 26, 2008.

In the challenged PDO, the Hearing Examiner found that security guards employed by the County and represented by the Association were not "directly involved with and necessary to the function of the courts" such that they would be entitled to interest arbitration under Section 805 of the Public Employe Relations Act (PERA). Accordingly, the Hearing Examiner concluded that the County did not violate Section 1201(a)(1), (3) and (5) of PERA when it refused to proceed to interest arbitration with the Association. In dismissing the Association's Charge of Unfair Practices, the Hearing Examiner relied upon Findings of Fact, which are summarized for purposes of these exceptions, as follows.

County security guards are employed to protect and assist anyone on County property, regardless of whether they are a judge, a County Commissioner, a County employe, a litigant, or a visitor. Security guards and screeners¹ are posted at the entrance to the main administration/courthouse building and the domestic courts building to conduct searches of persons and their property. Individuals entering these buildings must empty their pockets into a bin and walk through a metal detector. The security guards search and monitor the contents of the bin as well as briefcases and other carried belongings. The security guards ensure that the entrants are not carrying anything that has not been inspected and secure unauthorized weapons detected during the screening process.

The security guards are under the immediate supervision and direction of the Director of Security and, ultimately, the County's Director of Emergency Services. Security guards are responsible for security outside, not inside, the courtrooms, and have intervened and stopped disorderly conduct and fights that have occurred in the domestic court building. Although the security guards are not assigned guard duties inside the courtrooms, they may need to enter courtrooms to respond to specific incidents, such as to provide support to deputy sheriffs in confronting and controlling disorderly persons, or in responding to a panic alarm triggered in the courtroom.

Inside the courtrooms, the judges rely on deputy sheriffs to provide courtroom security. When serious criminal matters and defendants are in court, the judges will contact the Sheriff's Office to provide courtroom security. The Sheriff and his deputies are the ones who respond to emergencies inside the courtrooms. Although security guards may be involved to assist the deputy sheriffs or respond to alarms, the Court does not supervise, direct or control the security guards. With the court-related deputy sheriffs at its disposal, the ability of the Court to perform its judicial function would not be foreclosed should the County refuse to provide the general security by way of the security guards.

The Association argues on exceptions that the Hearing Examiner erred in concluding that the County did not violate its bargaining obligation under Section 1201(a)(1) and (5) of PERA by refusing to go to interest arbitration with the Association.² In this

¹ Screeners are County employes who operate the screening equipment, and are not members of the bargaining unit of security guards.

² The Association has not filed exceptions to the Hearing Examiner's dismissal of its claim of discrimination under Section 1201(a)(3) of PERA. See Section 95.98(a)(3) of the Board's Rules and Regulations, 34 Pa. Code §95.98(a)(3) (exceptions not specifically raised are waived).

regard, the Association contends that the Hearing Examiner's finding that the security guards were not within the supervision, control or direction of the Court of Common Pleas (Finding of Fact 4) is not supported by substantial evidence. The Association also challenges the Hearing Examiner's determination in Finding of Fact 15 that "[t]he County's refusal to provide general security, as provided by the security guards, would not result in an inability of the Court to perform its business function."

The Hearing Examiner's Findings of Fact, as adopted by the Board, must be based on substantial evidence of record. Pennsylvania Labor Relations Board v. Kaufmann Department Stores, Inc., 345 Pa. 398, 29 A.2d 90 (1942). Absent compelling circumstances, the Board relies upon the credibility determinations of the Hearing Examiner, who is able to observe the manner and demeanor of the witnesses during their testimony. Mt. Lebanon Education Association v. Mt. Lebanon School District, 35 PPER 98 (Final Order, 2004). We find no compelling reasons for reversal of the Hearing Examiner's credibility determinations. Further, the testimony credited by the Hearing Examiner is substantial evidence for Findings of Fact 4 and 15. Accordingly, those Findings will not be disturbed.

County Human Resources Director Carmen L. Thome, who is familiar with the job descriptions and chain-of-command for security guards and deputy sheriffs, testified that security guards are under the direct supervision of the Director of Security, not the Court. (N.T. 144). Judge Alan M. Rubenstein similarly testified that it was his belief that he did not have control or authority over the County security guards. (N.T. 67). President Judge David W. Heckler clearly stated that even he, as President Judge, did not supervise or direct the County security guards. (N.T. 100). Judge Rubenstein and President Judge Heckler also testified that security in the courtroom is provided by the deputy sheriffs at the behest of the presiding judge, (N.T. 67, 100-103), and that they could and would hold court and perform their judicial duties without the presence of County security guards. (N.T. 63, 105).

The testimony of record as a whole is aptly summarized by the Hearing Examiner's observation that "[t]he Courts may be a beneficiary of the security services provided by the County with its security guard force, but such security is not necessary to the business of the Court." (PDO at 6). As recognized by the Hearing Examiner, a finding that employes are directly involved with and necessary to the functioning of the courts for purposes of Section 805's entitlement to interest arbitration involves more than the judges being a mere beneficiary of a service provided by the employes. County employes who are both directly involved with and necessary to the courts perform work that is an element of the judicial process and without which the court could not function. Lehigh County, 11 PPER ¶11028 (Order and Notice of Pre-Election Conference and Nisi Order of Dismissal, 1980).

For example, in Lehigh County, supra, the Board found that the work of data entry employes, who identify and notify potential jurors and advise the court of delinquent child support payments, is directly involved with and necessary for jury trials and enforcement of domestic relations orders, rendering the data entry employes court-related employes. Additionally, it is well-recognized that deputy sheriffs perform other court-related functions aside from security, such as escorting prisoners, serving notice on litigants, carrying out orders and warrants issued by judges, and enforcing injunctions. These duties are both directly involved with and necessary to the judicial process, such that the deputy sheriffs qualify as court-related employes. Veneri v. County of Allegheny, 316 A.2d 120 (Pa. Cmwlth. 1974).

The security guards at issue in this case are similar to the information services employes who were found not to be court-related in Montgomery County, 30 PPER ¶30137 (Final Order, 1999), affirmed sub nom, Montgomery County v. PLRB, 769 A.2d 554 (Pa. Cmwlth. 2001). There, the information services employes provided computer software, programming and technical support for all county offices, including the courts. The Board stated as follows:

[W]e do not believe that employes who program and service the courts' computer system are sufficiently directly involved with and necessary to the functioning of the courts to be included in the court-related bargaining

unit. ... The services provided by these employes are more akin to that of the maintenance, mailroom and purchasing employes whose support services were found to be too remotely connected with the courts to warrant their inclusion in a court-related unit. Lehigh County, supra.

Montgomery County, 30 PPER at 304. The security services at issue here, provided to all County employes and the general public, are similarly too remote to the courts to be considered court-related within the meaning of Section 805 or PERA.

Further, the testimony of Judge Rubenstein and President Judge Heckler is emphatically clear that the County security guards do not perform an essential court-related duty without which the court could not perform a necessary judicial function. Accordingly, the Hearing Examiner did not err in finding that the County security guards are not directly involved with and necessary to the function of the courts within the meaning of Section 805 of PERA, and that the County did not violate Section 1201(a)(1) and (5) of PERA when it refused to proceed to interest arbitration with the Association. After a thorough review of the Association's exceptions and all matters of record, the Board shall dismiss the exceptions and make the PDO absolute and final.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the exceptions filed by the Bucks County Security Guards Association are hereby dismissed, and the October 15, 2008 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 sixteenth day of December, 2008. 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.