

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

SPRING GARDEN TOWNSHIP :
POLICE OFFICERS ASSOCIATION :
 :
v. : Case No. PF-C-08-48-E
 :
SPRING GARDEN TOWNSHIP :

PROPOSED ORDER OF DISMISSAL

On April 4, 2008, the Spring Garden Township Police Officers' Association (Association) filed with the Pennsylvania Labor Relations Board (Board) a charge of unfair labor practices alleging that Spring Garden Township (Township) violated sections 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA) as read in pari materia with Act 111 of 1968 (Act 111) by unilaterally implementing a new sick leave policy. On April 25, 2008, the Secretary of the Board issued a complaint and notice of hearing directing that a hearing be held on June 11, 2008, if conciliation did not resolve the charge by then.

On June 11, 2008, the parties reached a tentative settlement of the charge, and the hearing examiner continued the hearing. The hearing examiner also indicated that the Association's then attorney (Richardson Todd Eagen) should request permission to withdraw the charge once the settlement was consummated and that the hearing would be rescheduled upon request if the parties were unable to consummate the settlement. The hearing examiner confirmed as much in a letter to the parties the next day.

On January 8, 2009, the Association's current attorney (Edward A. Paskey) entered his appearance on behalf of the Association, represented that "no settlement has been reached" and requested that the hearing be rescheduled. The Board docketed but misfiled the request, so the hearing examiner took no action at the time.

On April 16, 2009, Mr. Paskey reiterated the Association's request that the hearing be rescheduled because the settlement had not been consummated.

On April 17, 2009, the hearing examiner rescheduled the hearing to July 17, 2009.

On April 29, 2009, the Township requested that the hearing be canceled because the parties consummated their settlement before Mr. Paskey entered his appearance on behalf of the Association. Attached to its request was a June 30, 2008, email from its attorney (Michael W. King) to Mr. Eagan proposing revisions to the Township's sick leave policy to consummate the settlement. Also attached to its request was an August 12, 2008, email from Mr. Eagan to Mr. King stating that "I have reviewed the proposed changes and they are acceptable subject to the Association's right to bargain over any issue for the new CBA."

On May 4, 2009, the hearing examiner gave the Association two weeks to request permission to withdraw the charge or to show cause why the hearing should not be cancelled.

On May 20, 2009, the Association requested that the hearing not be cancelled because "it is at the very least unclear as to whether there was a meeting of the minds to resolve the pending ULP." Attached to its request was an April 15, 2009, email from its president (Chris Hartinger) to the Township's police chief (George Swartz) indicating that several members of the Association had looked over the revisions to the Township's sick leave policy and noted two discrepancies at variance with their understanding of the settlement as related to them by Mr. Eagen.

A settlement of a charge is, of course, binding on the parties. New Castle Township, 25 PPER ¶ 25101 (Final Order 1994). Moreover, an attorney for a party has the apparent authority to enter into a settlement. Id. Thus, Mr. Eagen had the apparent authority to bind the Association when he agreed to the proposed revisions to the Township's sick

leave policy as related to him by Mr. King to settle the charge. Therefore, regardless of whether or not members of the Association may be under the impression that Mr. Eagen agreed to something other than the proposed revisions to the Township's sick leave policy as related to him by Mr. King, the Association is bound by his agreement to the proposed revisions to the Township's sick leave policy as related to him by Mr. King. Accordingly, the Association has not shown cause why the hearing should not be cancelled.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA as read in pari materia with Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the charge is dismissed and the complaint rescinded.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this fifth day of June 2009.

PENNSYLVANIA LABOR RELATIONS BOARD

Donald A. Wallace, Hearing Examiner