

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA LABOR RELATIONS BOARD

JEFFERSON COUNTY COURT APPOINTED :  
EMPLOYEES ASSOCIATION :  
 :  
v. : CASE NO. PERA-C-04-353-W  
 :  
JEFFERSON COUNTY :

**FINAL ORDER**

This matter is before the Pennsylvania Labor Relations Board (Board) on remand from an Opinion of the Pennsylvania Supreme Court issued on December 28, 2009. In its Opinion, the Supreme Court held that Jefferson County (County) committed an unfair practice by refusing to comply with grievance settlements issued by the President Judge of the Jefferson County Court of Common Pleas for five court-appointed employees represented by the Jefferson County Court-Appointed Employees Association (Union). The Supreme Court remanded the matter to the Board with direction to find a violation of Section 1201(a) (1) and (5) of the Public Employee Relations Act (PERA).

The findings of fact set forth in the Board Hearing Examiner's June 7, 2005 Proposed Decision and Order (PDO), and the Board's October 18, 2005 Final Order, are summarized as follows. The County and the Union were parties to a collective bargaining agreement that was effective from January 1, 2004, through December 31, 2006. Article 21 of the contract contained a four-step grievance procedure. In January 2004, the County Commissioners petitioned the Court of Common Pleas for authority to raise taxes to fund the anticipated deficit of \$1.7 million, because the County had already levied the maximum level of taxes permitted by law without court approval. The County's petition was denied by the President Judge.

Thereafter, on March 8, 2004, the County's Salary Board eliminated eleven positions, including five positions within the court-appointed bargaining unit. On or about March 15, 2004, the five terminated bargaining unit members filed grievances over the elimination of their positions. On March 22, 2004, the President Judge, as the second step in the grievance procedure, issued a letter to the County Commissioners sustaining the employees' grievances and directing reinstatement as the appropriate remedy. By letter dated March 30, 2004, the County refused to reinstate the five bargaining unit employees as directed in the grievance settlements.

The Union then brought an action in the Court of Common Pleas to compel the Court to reinstate the five bargaining unit employees. After the Court of Common Pleas ruled in favor of the Union, the County reinstated the employees and paid their salaries without raising taxes.

Following a hearing on the Union's charge of unfair practices, the Hearing Examiner issued the PDO in which he concluded that the County violated Section 1201(a)(1) and (5) of PERA. Upon filing of timely exceptions by the County, the Board issued a Final Order sustaining the exceptions, reversing the Hearing Examiner, and concluding that the County did not commit unfair practices. In an Opinion and Order issued on December 7, 2006, the Commonwealth Court dismissed the Union's Petition for Review and affirmed the Board's Final Order.

In its Opinion issued on December 28, 2009, the Pennsylvania Supreme Court reversed the Commonwealth Court and concluded as follows:

- (1) the labor organization representing the judiciary's employees has standing in this matter;
- (2) the county, in establishing its budget, did not encroach on the judiciary's constitutional right to hire, fire, and supervise its employees;
- (3) the judiciary did not contravene the county's legislative budget-making function by settling the grievances;
- (4) the judiciary's constitutional right to hire, fire, and supervise its employees was violated when the salary board eliminated five trial court employee positions; and
- (5) the county committed an unfair labor practice by refusing to implement the grievance settlements.

Jefferson County Court Appointed Employees v. Pennsylvania Labor Relations Board, \_\_\_ Pa. \_\_\_, \_\_\_ A.2d \_\_\_, No. 37 WAP 2007, slip op. at 1 (December 28, 2009). The Supreme Court directed that the case be remanded "to the PLRB for a Final Order in accordance with this Opinion." Id. at 19.

After a thorough review of the record, and pursuant to the decision of the Pennsylvania Supreme Court in this case, we conclude that by refusing to abide by binding grievance settlements, the County committed an unfair practice under Section 1201(a)(1) and (5) of PERA.

#### CONCLUSIONS

The Board, therefore, after due consideration of the foregoing, concludes and finds:

1. That the County is a public employer within the meaning of Section 301(1) of PERA.
2. That the Union is an employe organization within the meaning of Section 301(3) of PERA.
3. That the Board has jurisdiction over the parties hereto.
4. That the County has committed unfair practices in violation of Section 1201(a) (1) and (5) of PERA.

#### ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the Board

#### HEREBY ORDERS AND DIRECTS

that the County shall:

1. Cease and desist from interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of PERA.
2. Cease and desist from refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
3. Take the following affirmative action which the Board finds necessary to effectuate the policies of PERA:
  - (a) Comply with the grievance settlements;
  - (b) Post a copy of this Final Order within five (5) days from the date hereof in a conspicuous place readily accessible to its employes and have the same remain so posted for a period of ten (10) consecutive days; and
  - (c) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Final Order by completion and filing of the attached affidavit of compliance.

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 February, 2010. 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.

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

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**AFFIDAVIT OF COMPLIANCE**

Jefferson County hereby certifies that it has ceased and desisted from its violation of Section 1201(a)(1) and (5) of PERA; that it has complied with the grievance settlements; that it has posted this Final Order as directed; and that it has served a copy of this affidavit on the Association at its principal place of business.

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Signature/Date

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Title

SWORN AND SUBSCRIBED TO before me  
the day and year first aforesaid.

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Signature of Notary Public