

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
COUNCIL 81, LOCAL 1607,

Petitioner,

v.

NEW CASTLE COUNTY,

Respondent.

U.L.P. No. 96-11-199A

[Probable Cause Determination]

Order of the Board on Motion for Clarification

1. The decision of the Executive Director to dismiss the charge that the County's failure to apply the Hearing Officer's decision in the Sewer Department grievances (#92-100, #93-75, #94-43) to the pending Finance Department grievance (#94-08) constitutes an unfair labor practice in violation of 19 Del.C. §1307(a)(5) is reversed. The Board defers this issue to the parties' contractual grievance and arbitration procedure. Consistent with its limited deferral policy, the Public Employment Relations Board retains jurisdiction over this issue for the express purpose of reconsideration, on application of either party, for any of the following reasons:

1. The arbitral process has been unfair;
2. The dispute is not being resolved through the contractual grievance/ arbitration procedure with reasonable promptness;
3. Either party refuses to abide by an arbitrator's decision;
4. The statutory claim is not resolved by the grievance/arbitration procedure;

5. The issue has been satisfactorily settled between the parties in contract negotiations.
2. The Decision of the Executive Director to dismiss the charge that the County committed a per se violation of 19 Del.C. §1307 (a)(5) by unilaterally altering the working hours in its Finance Department in January, 1994, is affirmed, for the reason that the alleged violation occurred prior to the September, 1994 effective date of the Public Employment Relations Act.

WHEREFORE, the Board has directed the parties to submit a status report concerning Grievance 94-08, to the Board through the Office of the Executive Director not later than April 22, 1997.

IT IS SO ORDERED.

/s/Henry E. Kressman
HENRY E. KRESSMAN, Chairman

/s/John D. Daniello
JOHN D. DANIELLO, Member

/s/James F. Maher
JAMES F. MAHER, Esquire, Member

DATED: 7 April 1997