

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

DELAWARE STATE TROOPERS ASSOCIATION, : Remand on Review of
 : the Decision of the
 and : Binding Interest
 : Arbitrator
 :
 STATE OF DELAWARE, DEPARTMENT OF SAFETY AND : **BIA 08-01-612**
 HOMELAND SECURITY, DIVISION OF STATE POLICE. :

APPEARANCES

Jeffrey M. Weiner, Esq., for Delaware State Troopers Association

Aaron Shapiro, Office of State Labor Relations and Employment Practices, for DSHS/DSP

Background

The State of Delaware, Department of Safety and Homeland Security (“State” or “DSHS”) is a public employer within the meaning §1602(p) of the Police Officers and Firefighters Employment Relations Act (“POFERA”), 19 Del.C. Chapter 16 (1986). The Division of State Police (“DSP”) is an agency of DSHS.

The Delaware State Troopers Association (“DSTA”) is an employee organization within the meaning of §1602(g) of the POFERA. DSTA was certified in early 1972 to represent a bargaining unit of “All State Police Officers including Recruit Troopers, Troopers, Troopers First Class, Sergeants, Corporals, Detectives, Detective Sergeants, Lieutenants, Captains, Staff Captains and Majors (excluding Civilians, Lt. Colonels and Colonel)”. DOL Case 75. DSTA is the exclusive bargaining representative of that unit within the meaning of 1602(h) of the POFERA.

On January 12, 2008, DSTA requested PERB authorize binding interest arbitration. The impasse was certified for binding interest arbitration and the hearing was held before the Executive Director on June 4, July 14 and July 15, 2008.

Following receipt and consideration of written post-hearing argument, the Decision of the Binding Interest Arbitrator was issued on October 20, 2008, holding:

...based on the record created by the parties in this proceeding, the last, best, final offer of the State is determined to be the more reasonable based upon the statutory criteria set forth in 19 Del.C. §1615. The relative merits of the last, best, final offers were considered in their totality and balanced according to the statutory criteria. *FOP Lodge 4 v. Newark*, PERB Review of Arbitrator's Decision on Remand, IV PERB 2789, 2793 (2003). All of the exhibits, testimony, arguments and cases cited by the parties were reviewed in their entirety in reaching this decision... *DSTA v. DSHS/Div. of State Police*, BIA 08-12-612, VI PERB 4083, 4106 (2008).

The parties are directed to implement the tentative agreements and proposals set forth in the State's last, best, final offer and to notify the Public Employment Relations Board of compliance with this Order within thirty (30) days.

DSTA filed a Request for Review of the Executive Director's decision by the full Board, on October 24, 2008. The State filed a cross-request for review on October 24, 2008. Both parties were afforded the opportunity to file written argument in support of their appeal to the Board.

A copy of the complete record below as well as the argument on appeal was provided to and reviewed by each Board member. The Board convened a public hearing on Wednesday, December 17, 2008, to consider the Request and Cross-Request for Review.

REMAND ORDER

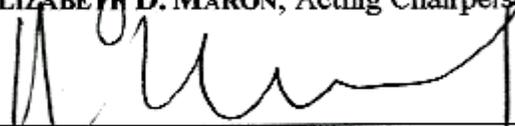
Based on the record presented and considering the arguments of the parties, it is the decision of this Board, upon unanimous vote, to remand this case to the Executive Director to accept additional evidence and/or argument, specifically as to:

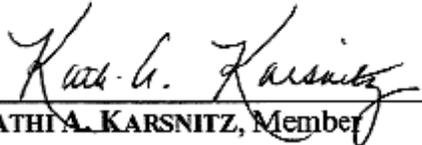
WHETHER THE INTEREST ARBITRATOR WAS FREE TO IGNORE THE MAY 31, 2008 DATE FOR ISSUANCE OF THE WRITTEN FINDINGS AND RECOMMENDATIONS OF THE LABOR/MANAGEMENT COMMITTEE ON ITS COMPREHENSIVE REVIEW OF THE RECRUITMENT, SELECTION, AND PROMOTIONAL PROCESSES WITHIN THE UNIFORMED RANKS OF THE DELAWARE STATE POLICE?

The Executive Director is directed to provide her conclusions in writing to the parties and to this Board.

IT IS SO ORDERED.


ELIZABETH D. MARON, Acting Chairperson


R. ROBERT CURRIE, JR., Member


KATHIA A. KARSNITZ, Member

Date: January 21, 2009