

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

CORRECTIONAL OFFICERS ASSOCIATION OF DELAWARE,	:	
	:	
	:	
Charging Party,	:	
	:	
v.	:	<u>ULP No. 17-09-1122</u>
	:	
STATE OF DELAWARE, DEPARTMENT OF CORRECTION,	:	Dismissal of the Request for Review
	:	
	:	
Respondent.	:	

Appearances

*Lance Geren, Esq., O'Donoghue & O'Donoghue LLP, for
Correctional Officers Association of Delaware (COAD)*

*William W. Bowser, Esq. and Lauren E.M. Russell, Esq., Young Conaway Stargatt &
Taylor, LLP, for State of Delaware, Department of Correction (DOC)*

1. The State of Delaware is a public employer within the meaning of §1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13. The Department of Correction is an agency of the State.

2. The Correctional Officers Association of Delaware is an employee organization within the meaning of 19 Del.C. §1302(i) and is the exclusive representative of a bargaining unit of Delaware Department of Correction employees (within the meaning of §1302(j)), which includes non-supervisory Correctional Officers as defined in DOL Case 1. COAD is also part of a bargaining coalition for purposes of negotiating compensation for State Merit Employee Unit 10, as defined by 19 Del.C. §1311 A (b)(10).

3. The State and COAD are parties to a collective bargaining agreement which had a term of July 1, 2015 through June 30, 2018. The parties negotiated a successor agreement which has a term of July 1, 2017 through June 30, 2019.

4. A decision was issued on July 30, 2018 on COAD's unfair labor practice charge¹ finding the State violated its good faith obligations under the PERA when it failed to apply the clear language of Executive Order Number Seventy-Seven Regarding State Employee Obligations and Compensation During Severe Weather Conditions and Emergencies to a severe weather event on March 14, 2017, as that Order was interpreted and enforced by the Court of Chancery in *State v. Correctional Officers Assn. of Delaware*, C.A. No. 11926-VCL, 2016 Del.Ch. LEXIS 171 (Nov. 18, 2016). By failing to provide equal time off to bargaining unit employees designated as essential during the March 14, 2017 severe weather event for overtime hours worked, the State violated 19 Del.C. §1307(a)(5). The decision also held the State interfered with the rights guaranteed to employees by the Public Employment Relations Act, in violation of 19 Del.C. §1307(a)(1).

5. The State was directed to cease and desist from failing or refusing to abide by its good faith obligations under the PERA and to make whole any essential bargaining unit employees who were entitled to equal time off for overtime worked during the March 14, 2017 severe weather event, consistent with the determination of the Court in *State v. COAD*, C.A. No. 11926-VCL, 2016 Del.Ch. LEXIS 171 (Nov. 18, 2016).

6. On August 3, 2018, the State moved for review of the Executive Director's decision, asserting the charge was untimely and that the arbitration award on which COAD and the Board relied was inapplicable to the circumstances underlying the Charge.

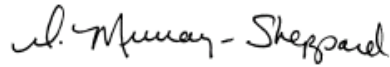
¹ *COAD v. State of Delaware, DOC, ULP 17-09-1122, IX PERB 7047 (2018)*. Copies of all PERB decisions are available on the PERB website, under the "Decisions" link. <https://perb.delaware.gov/decisions/>

7. A review hearing before the full Public Employment Relations Board was scheduled for August 16, 2018. The hearing was postponed at the joint request of the parties, who were engaged in discussions to resolve the underlying issues.

8. The request for review remained in abeyance until the State filed a motion to withdraw its motion on March 12, 2019.

9. Wherefore, the State's motion for review is dismissed.

DATE: March 12, 2019



DEBORAH L. MURRAY-SHEPPARD
Executive Director
Del. Public Employment Relations Board