

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

CAMBRIA COUNTY DEPUTY :
SHERIFFS' ASSOCIATION :
: Case No. PERA-C-10-24-W
v. :
: :
CAMBRIA COUNTY :

PROPOSED DECISION AND ORDER

On January 22, 2010, the Cambria County Deputy Sheriffs' Association (Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) alleging that Cambria County (County) violated Section 1201(a)(1), (5) and (8) of the Public Employee Relations Act (PERA). In its charge, the Union specifically alleged that the County unilaterally implemented a countywide attendance policy, effective January 1, 2010, changing the manner in which bargaining unit employees may use sick leave and imposing discipline for policy violations. The Union further alleged that the changes conflict with an interest arbitration award and deputy sheriffs' conditions of employment.

On February 18, 2010, the Secretary of the Board issued a letter advising the complainant to amend the charge to include a copy of the interest arbitration award. On February 26, 2010, the complainant filed its amended charge. On March 18, 2010, the Secretary issued a complaint and notice of hearing directing that a hearing be held on August 4, 2010 in Harrisburg. On July 30, 2010, the complainant requested a continuance due to the illness of its attorney. I continued the hearing to December 1, 2010. At the hearing on that day, both parties in interest were afforded a full and fair opportunity to present evidence and cross-examine witnesses. Both parties chose not to file post-hearing briefs.

The examiner, based upon all matters of record, makes the following findings of fact.

FINDINGS OF FACT

1. The County is a public employer within the meaning of Section 301(1) of PERA. (PERA-R-03-73-W, ODSEL).
2. The Sheriff is a public employer within the meaning of Section 301(1) of PERA. (N.T. 3).
3. The Union is an employee organization within the meaning of Section 301(3) of PERA. (N.T. 3).
4. The parties stipulated and agreed that Sheriff Kolar has not implemented the countywide attendance policy complained of in the specification of charges. (N.T. 6).

DISCUSSION

Sheriff Kolar, not the County, has the authority to direct and discipline the deputy sheriffs. Sheriff Kolar has refused to implement the countywide attendance policy and thereby prevented the policy from effectuating either changes to conditions of employment or conflicts with the interest arbitration award. The Sheriff's actions, therefore, have prevented the County from committing an unfair practice under Section 1201(a)(1), (5) or (8) with respect to the deputy sheriffs. Accordingly, the status quo ante exists among Sheriff Kolar's deputies and the charge is premature.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The County is a public employer under PERA.
2. Sheriff Kolar is a public employer.
3. The Union is an employe organization under PERA.
4. The Board has jurisdiction over the parties hereto.
5. The County has not committed unfair practices within the meaning of Section 1201(a)(1), (5) or (8) of PERA.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the charge is dismissed and the complaint is 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 twenty-eighth day of December, 2010.

PENNSYLVANIA LABOR RELATIONS BOARD

Jack E. Marino, Hearing Examiner