

City v. PBA, 25 OCB 32 (bcb 1980) [Decision No. B-32-80 (Arb)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of the Arbitration

between

THE CITY OF NEW YORK,

Petitioner

DECISION NO. B-32-80

DOCKET NO. BCB-438-80
(A-1066-80)

- and -

PATROLMEN'S BENEVOLENT
ASSOCIATION,

Respondent.

DECISION AND ORDER

Procedural Background

On June 17, 1980, the Patrolmen's Benevolent Association (hereinafter "PBA") filed a request for arbitration (Docket No. A-1066-80) in which it stated the grievance to be arbitrated as:

"The Department's determination of having police officers and Detectives selecting vacations together."

The City filed a petition challenging the arbitrability of this grievance on July 18, 1980.

Instead of submitting an answer within the time provided under the Revised Consolidated Rules of the Office of Collective Bargaining, the PBA's attorney submitted a letter, dated August 1, 1980, and received by OCB on August 4, 1980, requesting an extension of the time to answer, with the City's consent, until August 4, 1980. When, subsequently, no answer was received from

the PBA, the Trial Examiner assigned to this matter telephoned the office of the Union's attorney on August 14, 1980 and informed the managing attorney that the PBA was at that time in default. Later that day, another attorney from that office telephoned the Trial Examiner and was similarly informed that the answer to the City's petition challenging arbitrability was overdue. Nevertheless, to the present date, neither an answer nor a request for an extension of time has been filed by the PBA. Therefore, in view of the default by the PBA, we will consider this matter solely upon the request for arbitration and the petition challenging arbitrability.

Discussion

We have reviewed the City's petition, and have not found it to be defective on its face. In the absence of any submission by the PBA which would dispute the City's allegations, we must deem the allegations of the petition to be true. A prima facie case having been presented, we will grant the petition challenging arbitrability.

O R D E R

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

Decision No. B-32-80
Docket No. BCB-438-80
(A-1066-80)

3

ORDERED, that the petition of the City of New York challenging arbitrability be, and the same hereby is, granted; and it is further

ORDERED, that the request for arbitration of the Patrol men's Benevolent Association be, and the same hereby is, denied.

DATED: New York, N.Y.
September 4, 1980

ARVID ANDERSON
CHAIRMAN

DANIEL G. COLLINS
MEMBER

WALTER L. EISENBERG
MEMBER

FRANKLIN J. HAVELICK
MEMBER

JOHN D. FEERICK
MEMBER

MARK J. CHERNOFF
MEMBER

EDWARD J. CLEARY
MEMBER