

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
- - - - - X
In the Matter of the Arbitration

-between-

THE CITY OF NEW YORK,

DECISION NO. B-20-87

Petitioner,

DOCKET NO. BCB-951-87
(A-2513-86)

-and-

PATROLMEN'S BENEVOLENT ASSOCIATION,

Respondent.

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DECISION AND ORDER

On April 15, 1987, the City of New York, appearing by its office of Municipal Labor Relations (herein "City"), filed a petition challenging the arbitrability of a grievance submitted by the Patrolmen's Benevolent Association (herein ("PBA")). The PBA filed its answer on May 6, 1987, and the City submitted a reply on May 8, 1987.

The underlying grievance alleges that a Police Officer was denied overtime Compensation due to "improper supervisory action," and that this constitutes a violation of Article III, Section 1a of the collective bargaining agreement between the parties. This section provides that:

All ordered and/or authorized overtime in excess of the hours required of an employee by reason of the employee's regular duty chart, whether of an emergency nature or of a nonemergency nature, shall be compensated for either by cash payment or compensatory time off, at the rate of time and one-half, at the sole option of

the employee. Such cash payments or compensatory time off shall be computed on the basis of completed fifteen (15) minute segments.

Positions of the Parties

The City's Position

The City challenges the arbitrability of the PBA's grievance on two grounds. First, the City asserts that the assignment of overtime is within the City's statutory management prerogatives set forth in Section 1173-4.3(b) of the New York City Collective Bargaining Law ("NYCCBL") to:

direct its employees; ... maintain the efficiency of governmental operations; determine the methods, means and personnel by which governmental operations are to be conducted; ...,

and that Article III, Section 1a in no way limits this right.

Secondly, the City takes the position that the PBA has failed to establish the required nexus between the act complained of and the source of the alleged right. The City points out that this Board has held in the past that Article III, Section 1a does not grant a substantive right to work overtime, but merely provides for compensation for overtime ordered and/or authorized by the Police Department.

The Union's Position

The PBA states that the issue herein "does not involve the assignment of overtime but rather an improper supervisory action...." The PBA alleges that the grievant "was denied the right to properly process an arrest [and that if] the proper supervisory determination had been made, grievant would have been entitled to work overtime and be appropriately compensated." The PBA argues that Section 1a must be read to include the right not to have an arrest improperly terminated.

DISCUSSION

We find the City's position well founded. The issue herein, as defined by the PBA, i.e., "improper supervisory action" resulting in the failure to authorize overtime, is identical to that raised by the PBA in two recent cases, Docket No. BCB-856-86 (Decision No. B-35-86) and Docket No. BCB-919-86 (Decision No. B-16-87). For the reason cited in those decisions, i.e., Section 1a "in no way establishes that an employee is guaranteed the right to perform overtime work in any particular circumstance," we find that the dispute herein is not arbitrable. The PBA has failed to establish a prima facie relationship between the act complained of -whether it is called improper super-

visory action or failure to authorize overtime - and the source of the alleged right: a contractual provision requiring compensation only for overtime actually authorized or ordered.

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

ORDERED, that the City's petition challenging arbitrability be, and the same hereby is, granted; and it is further

ORDERED, that the Union's request for arbitration be, and the same hereby is, denied.

DATED: New York, N.Y.
May 21, 1987

ARVID ANDERSON
CHAIRMAN

DANIEL G. COLLINS
MEMBER

CAROLYN GENTILE
MEMBER

EDWARD F. GRAY
MEMBER

EDWARD SILVER
MEMBER

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