

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

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| In the Matter of |) | |
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| LOS ANGELES COUNTY LIFEGUARD ASSOCIATION |) | |
| |) | |
| Charging Party |) | |
| |) | |
| v. |) | UFC 19.6 |
| |) | |
| DEPARTMENT OF BEACHES, COUNTY OF LOS ANGELES |) | |
| |) | |
| Respondent |) | |
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DECISION AND ORDER

The charge in this case was filed by the Los Angeles County Lifeguard Association (Association or Charging Party) against the Los Angeles County Department of Beaches (County or Respondent) alleging the County committed an unfair employee relations practice within the meaning of Sections 12(a)(1) and 12(a)(3) of the Employee Relations Ordinance (Ordinance) by unilaterally rescinding the practice of scheduling Lifeguards on a four day, ten-hour work week (4/40 schedule) during daylight savings hours.

The matter was duly referred to Hearing Officer Marshall Ross, who held a hearing on January 6, 1982. Both parties were present at the hearing and were afforded full

opportunity to offer argument and evidence and to examine and cross-examine witnesses. Post-hearing Briefs were filed. Hearing Officer Ross submitted a report that was received at the Commission's office on March 18, 1982. Exceptions to the Report were filed by the County with the Commission on April 1, 1982. On April 20, 1982, the Association filed with the Commission a statement in opposition to these Exceptions.

Hearing Officer Ross concluded that ". . . the County violated its statutory obligation, as expressed in the County Ordinance and in Meyers-Milias-Brown, to confer with the Association before discontinuing the 4/40 week" (Hearing Officer's Report, p. 15.) The Hearing Officer's proposed remedy directed the County to (1) reinstate the 4/40 schedule ". . . during daylight savings hours, until June 30, 1983, and thereafter for each succeeding contract term, unless the County negotiates concerning the discontinuance of such practice, at a time when the MOU is open for negotiations" (Hearing Officer's Report, p. 16) and (2) pay certain mileage for the extra round trip occasioned by the County's change in the 4/40 schedule.

Although in agreement with the Hearing Officer's conclusions that ". . . the right to require prior bargaining concerning the discontinuance of the 4/40 week was not waived by the provisions of the MOU . . ." (Hearing Officer's Report, pp. 14-15) and that the County's action in discontinuing the

4/40 schedule was violative of the Ordinance, the Commission is unable to adopt his proposed Order in its entirety.

A review of the record discloses that as a result of negotiations held from February through mid-August, 1979, the Association agreed to accept straight-time compensation for overtime hours in exchange for certain concessions on the part of the County. Among these concessions was the County's agreement to continue the practice of scheduling Lifeguards on a 4/40 schedule during daylight savings hours. While the parties' agreement concerning the overtime compensation rate was incorporated into the MOU executed on August 24, 1979, the agreement on the 4/40 schedule was not reduced to writing.

Negotiations on the terms of a successor MOU were held from February through June, 1981. The Term and Renegotiations articles of the 1979-81 Lifeguard MOU (Joint Exhibit 6) provided that all terms of the MOU were open for negotiations. Inasmuch as the entire MOU was reopened, it is not unreasonable to conclude that any and all side agreements were also subject to renegotiations. Hence, in order to ensure that the prior practice concerning the Lifeguards' work schedule would remain extant for the duration of the 1981-83 MOU, it was incumbent on the Association to reach an agreement to this effect with the County. The record is devoid of any indication that such agreement, either expressed or implied, was reached during these negotiations. We are thus compelled to

conclude that although the record supports the Hearing Officer's recommendation reinstating the 4/40 schedule during daylight savings hours, it does not support his recommendation prohibiting any change in this scheduling practice prior to June 30, 1983.

The Commission considers the Exceptions filed by the County which raised serious questions as to the propriety of the Hearing Officer's recommendation concerning travel expense to be well taken. The remedy of travel expense reimbursement proposed by the Hearing Officer is beyond the remedial authority granted to this Commission.

Based on the foregoing discussion, the recommendations of the Hearing Officer, as reflected in the Order below, will be appropriately modified.

O R D E R

IT IS HEREBY ORDERED that the charge as filed by the Charging Party on September 11, 1981, be sustained and

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that the County be directed to (1) reinstate the practice of scheduling Lifeguards on a 4/40 schedule during daylight savings hours and (2) negotiate with the Charging Party concerning any changes in said work schedule.

DATED at Los Angeles, California, this 25th day of June, 1982.



LLOYD H. BAILER, Chairman



JOSEPH A. GENTILE, Commissioner



FREDRIC N. RICHMAN, Commissioner