

Bond Case Briefs

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COLLECTIVE BARGAINING - PENNSYLVANIA

City of Pittsburgh v. Fraternal Order of Police, Fort Pitt Lodge No. 1

Supreme Court of Pennsylvania - May 22, 2017 - A.3d - 2017 WL 2229859 (Mem) - 209 L.R.R.M. (BNA) 3148

City petitioned for review of interest arbitration panel's supplemental award in favor of police union that modified the parties' collective bargaining agreement (CBA) by inserting a non-residency clause for police officers.

The Court of Common Pleas affirmed the award. City appealed. The Commonwealth Court reversed. Union filed petition for allowance of appeal, which was granted.

The Supreme Court of Pennsylvania held that:

- Interest arbitration panel had authority to modify residency requirement in CBA;
- Amendment to home rule charter to require residency was contrary to Police and Fireman Collective Bargaining Act, and thus violated Home Rule Charter Law;
- City's home rule charter amendment was unenforceable under constitutional provision stating that such charters were subservient to limitations imposed by legislature; and
- City's home rule charter amendment was preempted by the Police and Fireman Collective Bargaining Act.

Where a municipality has the authority to set or not to set a residency restriction under statute providing that a city of the second class may require a police officer to become a bona fide resident as a condition of employment, the interest arbitration panel under the Police and Firemen Collective Bargaining Act has the same authority.

Amendment to city's home rule charter to require all city employees and officials, including police and fire personnel, to maintain their domicile within city violated Home Rule Charter Law, which precluded exercise of powers contrary to statutes applicable across Commonwealth and provisions inconsistent with statutes enacted prior to certain date affecting the rights, benefits, and working conditions of public employees. Residency was mandatory subject of bargaining under Police and Firemen Collective Bargaining Act, Act specifically provided that it was applicable to every political subdivision, regardless of adoption of home rule charter, and amendment was contrary to the Act by removing residency as a subject of collective bargaining.

City's home rule charter amendment, which required all city employees and officials, including police and fire personnel, to maintain their domicile within city, thus divesting officers of right to bargain over residency under Police and Firemen Collective Bargaining Act, was unenforceable under constitutional provision stating that home rule charters and amendments were subservient to limitations imposed by General Assembly. Home Rule Charter Law provided that statutes that were uniform and applicable in every part of the Commonwealth would remain in effect not be changed or modified, Act was applicable to every political subdivision in Commonwealth, and amendment

sought to change or modify Act.

City's home rule charter provision, which eliminated residency as mandatory subject of collective bargaining by requiring all city employees and officials, including police and fire personnel, to maintain their domicile within city, was expressly preempted by Police and Fireman Collective Bargaining Act based on explicit preemption clauses in Home Rule Charter Law, under which statutes of statewide application predominated over municipal enactments and municipalities were prohibited from enacting provisions inconsistent with any statute enacted prior to a certain date affecting the rights of any public employee. Act was applicable to all political subdivisions, and public sector bargaining rights under the Act and the Public Employee Relations Act (PERA) became effective prior to relevant date in Law.