

STATE OF MICHIGAN
COURT OF APPEALS

TEAMSTERS, STATE, COUNTY, MUNICIPAL
WORKERS, LOCAL 214,

UNPUBLISHED
February 6, 2001

Petitioner-Appellant,

v

No. 218398
LC No. 98-008038

FLINT TOWNSHIP,

Respondent-Appellee.

Before: Collins, P.J., and Doctoroff and White, JJ.

PER CURIAM.

Petitioner appeals as of right the order dismissing its petition for interest arbitration under MCL 423.231 *et seq.*; MSA 17.455(31) *et seq.*, (Act 312). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Petitioner represents police communications operators employed by Flint Township and covered by Act 312. The parties used the provisions of Act 312 to arrive at a collective bargaining agreement running from February 1, 1998 to December 31, 1999. The agreement included the following provision: "It is the recommendation of the Panel (312 Arbitration Panel) that the question of wages be reviewed by the parties at some time within the term of the contract."

The parties discussed the question of wages during the contract term, and met with a mediator, but did not resolve the issue. The union filed a petition for Act 312 arbitration as to wages. The petition was denied, as the contract remained in full force and effect, and a dispute concerning an existing agreement is excluded from arbitration under the act.

MCL 423.233; MSA 17.455(33) provides:

Whenever in the course of mediation of a public police or fire department employee's dispute, except a dispute concerning the interpretation or application of an existing agreement (a grievance dispute), the dispute has not been resolved to the agreement of both parties within 30 days of the submission of the dispute to mediation, or within such further additional periods to which the parties may agree, the employees or employer may initiate binding arbitration proceedings by

prompt request therefor, in writing, to the other, with a copy to the employment relations commission.

Grievance arbitration involves arbitration of disputes arising under an existing collective bargaining agreement, while interest arbitration involves arbitration of the terms to be included in a new collective bargaining agreement. *Ottawa Co v Jaklinski*, 423 Mich 1, 14; 377 NW2d 668 (1985). Compulsory arbitration under Act 312 is not available for grievances regarding the interpretation of an existing collective bargaining agreement. *Id.*, 15.

Appellate review of a MERC decision is limited. A court will not set aside a MERC decision if its findings are supported by competent, material, and substantial evidence on the whole record unless it is based on a substantial and material error of law. *Detroit Police Officers Ass'n v Detroit*, 212 Mich App 383, 388; 538 NW2d 37 (1995). Although an administrative agency may not ignore the plain meaning of a statute, considerable weight is given to the statutory construction made by the agency charged with the execution of a statute. *Ansell v Dep't of Commerce (On Remand)*, 222 Mich App 347, 354; 564 NW2d 519 (1997).

Petitioner has failed to show that MERC erred in its determination that this matter did not constitute a dispute under Act 312. The provision on which petitioner relies is a term of the existing contract. The contract had not expired at the time the petition was filed. The agency made a reasonable interpretation of the statute when it found that compulsory arbitration was not available under these circumstances.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Martin M. Doctoroff
/s/ Helene N. White