2017 IL App (1st) 152900-U

THIRD DIVISION
March 15, 2017

No. 1-15-2900

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

VILLAGE OF NORTH RIVERSIDE, Plaintiff-Appellant, v. NORTH RIVERSIDE FIREFIGHTERS AND LIEUTENANTS UNION LOCAL 2714 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AFL-CIO, CLC; ILLINOIS LABOR RELATIONS BOARD, STATE PANEL; and MELISSA MLYNSKI (Illinois Labor Relations Board Executive Director), Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County. 14 CH 14774 The Honorable Diane J. Larsen Judge, presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court properly dismissed the plaintiff-employer's complaint seeking a declaratory judgment where the complaint pertained to the employer's relationship with the defendant union and, thus, fell within the exclusive jurisdiction of the Illinois Labor Relations Board, State Panel.

¶ 2 This interlocutory appeal arises from the circuit court's order dismissing the complaint filed by the Village of North Riverside (the Village) against the North Riverside Firefighters and Lieutenants Union Local 2714 International Association of Firefighters AFL-CIO, CLC (the

Union), and the Illinois Labor Relations Board, State Panel (the Board) for want of jurisdiction. Specifically, the court found the Village improperly sought a declaration with respect to matters within the exclusive jurisdiction of the Board. We agree.

¶ 3 I. Background

¶ 4 We recite only those facts necessary to resolve this appeal. The Village and the Union were parties to a collective bargaining agreement (CBA) set to expire on April 30, 2014. According to the Village, as that date drew near, the Village was concerned about its financial ability to satisfy its pension obligations. Consequently, the Village considered whether fire protection services could be outsourced to Paramedic Services of Illinois, Inc. (PSI). Meanwhile, the Union initiated bargaining with the Village. Bargaining was not fruitful, although the Village and the Union dispute the reason for this.

¶ 5 On September 12, 2014, the Village commenced this action against the Union, seeking a declaration "that because of the extraordinary present and prospective devastating financial consequences faced by the Village if it maintains a fire department staffed by full-time, pension eligible municipal employees, the Village has the right to outsource its fire protection services rather than maintaining a full-time and pension eligible municipal employee." Additionally, the Village sought "a declaration that nothing in either (a) the Village's now expired collective bargaining agreement with the union representing its full-time firefighters, or (b) the Illinois Public Labor Relations Act, prevents the implementation of this outsourcing decision." The complaint further sought a declaration that (1) "nothing in the CBA, the Illinois Public Labor Relations Act, or any other law prevents the Village from outsourcing its fire protection service based on a good faith legislative determination of economic necessity"; and (2) "the Village's

decision to outsource its fire protection service is based on a good faith legislative finding of economic necessity."

¶ 6 A week later, the Union filed charges against the Village with the Board, arguing that the Village had engaged in unfair labor practices by failing to bargain in good faith and interfering with the Union's protected activities. The Union demanded compulsory interest arbitration before the Board. Subsequently, the Board denied the Village's request to hold arbitration proceedings in abeyance pending a decision by the circuit court, finding no authority for the Board to do so. Nonetheless, the arbitrator stayed those proceedings pending the court's judgment.

¶ 7 Meanwhile, the Village filed an amended complaint in the circuit court, adding the Board and its executive director as parties. The amended complaint also sought additional declarations that "the Village may terminate the expired CBA," and that "the Board has no jurisdiction or authority to conduct a compulsory interest arbitration on whether the Village may terminate the expired CBA and then outsource its Fire Department." In response, the Union asserted that the Board had exclusive jurisdiction over this matter. The Board agreed. Furthermore, the Union filed a counterclaim alleging that the Village's scheme would violate the Pension Protection Clause of the Illinois Constitution (Ill. Const. 1970, art. XIII, § 5), a claim which the Union alleged was within the court's jurisdiction because it involved a constitutional challenge.

¶ 8 The Village moved for summary judgment on its complaint and the Union filed a cross-motion for summary judgment. The Union also moved for summary judgment on its counterclaim. At a hearing on the parties' motions, the court found the Village failed to exhaust its administrative remedies and, thus, the court lacked jurisdiction over the complaint. In contrast, the court found it had jurisdiction over the Union's constitutional claim but stayed proceedings on that matter because proceedings before the Board could render the issue moot.

¶ 9 II. Analysis

¶ 10 The issue before us is whether, under the Illinois Public Labor Relations Act (5 ILCS 315/1 *et seq.* (West 2016)), the Board has exclusive jurisdiction over the matter raised by the Village's complaint. We review this issue *de novo*. *Bradley v. City of Marion*, 2015 IL App (5th) 140267, ¶ 12. Additionally, we note that the Village has inconsistently, rather than alternatively, suggested both that the Board has no jurisdiction over this matter and that the Board shares concurrent jurisdiction with the circuit court. For the following reasons, we find the matters raised in the Village's complaint fell within the exclusive jurisdiction of the Board. *Cf. Employers Mutual Cos. v. Skilling*, 163 Ill. 2d 284, 287-88 (1994) (observing that the primary jurisdiction doctrine applies where a court has original or concurrent jurisdiction but should stay proceedings pending referral of the matter to an administrative agency with expertise).

¶ 11 Illinois circuit courts have original jurisdiction over all justiciable matters, but the legislature may vest exclusive original jurisdiction in administrative agencies by enacting a comprehensive administrative scheme. *Id*. at 287-88. Additionally, an agency may have exclusive jurisdiction even where the statute in question does not specify that the agency's jurisdiction is exclusive. *Cessna v. City of Danville*, 296 Ill. App. 3d 156, 163 (1998); *Foley v. American Federation of State, County & Municipal Employees, Council 31, Local No. 2258*, 199 Ill. App. 3d 6, 10 (1990) (citing *Board of Education of Community School District No. 1 Coles County v. Compton*, 123 Ill. 2d 216, 222 (1988)); see also *J & J Venture Gaming, LLC v. Wild, Inc.*, 2016 IL 119870, ¶ 24 (placing doubt on *Skilling*'s statement that a statute must explicitly prohibit courts from exercising jurisdiction). Furthermore, where an agency has exclusive jurisdiction to hear an action, parties must exhaust all administrative remedies before seeking

relief in the courts. *Skilling*, 163 Ill. 2d at 288. Otherwise, the court must dismiss the action. *People v. NL Industries*, 152 Ill. 2d 82, 96 (1992).

¶ 12 Our supreme court has observed that the Act and the Illinois Educational Labor Relations Act were enacted in the same legislative session to provide comprehensive regulations for bargaining within the public sector. See *City of Freeport v. Illinois State Labor Relations Board*, 135 Ill. 2d 499, 505 (1990); *Compton*, 123 Ill. 2d at 221. Additionally, the Act's purpose is to regulate the "resolution of disputes arising under collective bargaining agreements." 5 ILCS 315/2 (West 2016). In order to prevent labor conflicts and protect the public, "*all collective bargaining disputes* involving persons designated by the Board as performing essential services and those persons defined herein as security employees *shall be submitted* to impartial arbitrators." (Emphases added.) *Id.* Furthermore, where employees are prohibited from striking, public policy requires providing "an alternate, expeditious, equitable and effective procedure for the resolution of labor disputes subject to approval procedures mandated by this Act." *Id*. We note that firefighters are employees prohibited from striking. 5 ILCS 315/17 (West 2016).

¶ 13 The Act generally requires employers to bargain over matters concerning conditions of employment, such as hours and wages, but not matters of managerial policy. See 5 ILCS 315/3(b), 4 (West 2016). Additionally, employers must negotiate in good faith. 5 ILCS 315/7, 10 (West 2016). The Act also sets forth procedures for terminating CBAs (5 ILCS 315/7 (West 2016)), as well as procedures for resolving collective bargaining disputes with firefighters (5 ILCS 315/14 (West 2016)). Moreover, the Act vests jurisdiction over CBA matters with the Board (5 ILCS 315/5 (West 2016)), which also has the authority to consider alleged unfair labor

practices (5 ILCS 315/11 (West 2016)). Judicial review of the Board's decision regarding unfair labor practices, however, shall be afforded directly in the appellate court. *Id.*[1]

¶ 14 In light of this comprehensive statutory scheme, we agree with prior decisions of this court, and other courts, finding that the Board has exclusive jurisdiction over disputes concerning bargaining, CBAs and the Act. See *Gantz v. McHenry County Sheriff's Department Merit Comm'n*, 296 Ill. App. 3d 335, 339-40 (1998); *Stahulak v. City of Chicago*, 291 Ill. App. 3d 824, 831 (1997); *Foley*, 199 Ill. App. 3d at 10, 12; see also *Board of Education of Peoria School District No. 150 v. Peoria Federation of Support Staff, Security/Policeman's Benevolent & Protective Association Unit No. 114*, 2013 IL 114853, ¶ 65 (Kilbride C.J., specially concurring) (observing that the supreme court had consistently indicated that the Board's jurisdiction to hear disputes under the Act was exclusive); *Carver v. Nall*, 172 F.3d 513, 516 (7th Cir. 1999); *Proctor v. Board of Education*, 392 F.Supp.2d 1026 (N.D.Ill. 2005). We also agree that exclusive jurisdiction is necessary to prevent inconsistent judgments, forum shopping and burdening an already overburdened court system. *Gantz*, 296 Ill. App. 3d at 339; *Foley*, 199 Ill. App. 3d at 10-11. We add that in the context of employees who cannot strike, the Act's goal of expeditiously resolving disputes is consistent with placing exclusive jurisdiction in the Board, rather than allowing the possibility that disputes will linger in our courts.

¶ 15 Here, the Village, relying on *Skilling*, contends that the circuit court had jurisdiction because the complaint merely raised the legal question of whether the Village had the right to terminate the CBA and its relationship with the Union. We disagree.

¶ 16 In *Skilling*, our supreme court held that the circuit court and the Industrial Commission had concurrent jurisdiction over the claim made by the employer's workers' compensation

[1] The Act also states that after exhausting any arbitration required by the Act or a CBA, lawsuits alleging violations of a CBA may be brought in the circuit court. 5 ILCS 315/16 (West 2016).

insurer that it had no obligation to defend or indemnify the employer. *Skilling*, 163 Ill. 2d at 285-87. The court found that no language in the Workers' Compensation Act (820 ILCS 305/1 *et seq.* (West 1992)) excluded the circuit court from deciding such matters. *Skilling*, 163 Ill. 2d at 285-87. Having found concurrent jurisdiction, *Skilling* then considered whether the doctrine of primary jurisdiction required the circuit court to refer the matter to the Industrial Commission. *Id*. at 287-89. The supreme court found that this was unnecessary, as legal questions were in the province of the courts and did not require courts to give wide latitude to an administrative agency. Compare *Id*. at 289, with *City of Freeport*, 135 Ill. 2d at 516 (observing that courts defer to an agency's construction of an ambiguous statute). Moreover, declaratory judgment suits to determine insurance coverage, such as this insurer's suit, were precisely the type of issue intended for declaratory actions. *Skilling*, 163 Ill. 2d at 289.

¶ 17 Unlike *Skilling*, the dispute at hand directly involves the ongoing validity of a CBA between the Village and the Union, a matter uniquely within the province of the Act. See *Bradley*, 2015 IL App (5th) 140267, ¶ 32 (finding that *Skilling* was limited to the issues presented in that case). In arguing that the issue is whether the Village had the right to terminate the CBA, the Village effectively concedes that the CBA is integral to its claim. Additionally, we are not persuaded by the Village's attempt to divorce the issues before the Board from the matter raised in the complaint.

¶ 18 The complaint sought a declaration that the Village acted in good faith regarding its determination that outsourcing was necessary, notwithstanding that the Village also acknowledged before the court that the Board had exclusive jurisdiction to assess whether the Village acted in good faith. In addition, a finding that the Village could unilaterally terminate the CBA would implicitly include a finding that the Village would not be committing an unfair labor

practice in doing so. See also *Village of Oak Lawn v. Illinois Labor Relations Board, State Panel*, 2011 IL App (1st) 103417, ¶ 14 (observing that "[a]n employer's refusal to negotiate over a mandatory subject of bargaining constitutes an unfair labor practice"); *City of Belvidere v, Illinois State Labor Relations Board*, 181 Ill. 2d 291, 205 (1998) (finding the clearly erroneous standard of review applies to the mixed question of whether a matter is subject to mandatory bargaining, allowing some deference to the Board's expertise and experience). We also observe that before the circuit court, the Village sought a declaration that, among other things, the Village faced "extraordinary present and prospective devastating financial consequences" if it maintained its fire department staff, that outsourcing was necessary and that the Village made this determination in good faith. Thus, the Village's suggestion that the matter raised in the complaint is purely legal is patently disingenuous. We further note that the complaint did not challenge the Board's jurisdiction over the matter or raise a constitutional challenge. *Cf. County of Kane v. Carlson*, 116 Ill. 2d 186, 199 (1987) (the rule requiring the exhaustion of administrative remedies does not apply where a party raises a facial constitutional challenge or contests the agency's jurisdiction, as such matters require no fact finding and do not rely on an agency's expertise).

¶ 18 III. Conclusion

¶ 19 The Act gives the Board exclusive jurisdiction over disputes concerning collective bargaining and the Act. Here, the Village's complaint for a declaratory judgment pertained to such matters and raised factual issues. Thus, the circuit court properly dismissed the Village's complaint, as exclusive jurisdiction lies with the Board. In light of this jurisdictional defect, the the merits of the Village's complaint are not before us, notwithstanding the extensive arguments presented. *Bradley*, 2015 IL App (5th) 140267, ¶ 12. We also deny the Village's motion to file a

supplemental record pertaining to the Board's proceedings on the Union's claims before it. The merits of those proceedings have no bearing on this jurisdictional issue.[2]

¶ 20 Affirmed.

[2] The proceedings before the Board are the subject of another pending appeal filed by the Village (No. 1-16-2251).