STATE OF MICHIGAN

COURT OF APPEALS

GROSSE ILE TOWNSHIP,

Plaintiff-Appellee,

v

POLICE OFFICERS ASSOCIATION OF MICHIGAN and GROSSE ILE POLICE OFFICERS ASSOCIATION OF MICHIGAN,

Defendants-Appellants.

UNPUBLISHED
June 25, 2020

No. 348379
Wayne Circuit Court
LC No. 18-006280-CK

Before: MURRAY, C.J., and JANSEN and MARKEY, JJ.

PER CURIAM.

Defendants, Police Officers Association of Michigan (POAM) and Grosse Ile Police Officers Association of Michigan (GIPOA), appeal as of right the trial court order granting summary disposition to plaintiff, Grosse Ile Township, and denying summary disposition to defendants, in this labor relations dispute. Defendants argue that the trial court erred in granting plaintiff summary disposition and denying defendants summary disposition because the parties' collective bargaining agreement (CBA) is clear and unambiguous, the Public Employment Relations Act (PERA), MCL 423.201 *et seq.*, prevails over local ordinances and state laws, and the trial court failed to consider defendants' affirmative defenses of laches, waiver, and forfeiture. We reverse and remand this matter to the trial court for further proceedings consistent with this opinion.

I. STATEMENT OF FACTS

This matter arises from a labor grievance regarding the level of health insurance premium payments to be paid by plaintiff for retiree health insurance of defendants' retired members. Plaintiff and GIPOA entered into a CBA in October 2016, for the term of April 1, 2016, to March 31, 2022. GIPOA is the local unit of POAM. Defendants were the exclusive representatives of the bargaining unit containing all police officers below the rank of lieutenant, dispatchers and clerks, and animal control officers. The CBA provides for the grievance procedure in Article 25, in relevant part, as follows:

25.1 A grievance shall mean a complaint by the Association and/or an employee or group of employees based upon an event, condition or circumstance under which an employee works, allegedly caused by a violation, misapplication or misinterpretation of any of the provisions of this agreement or any unfair, inequitable or unjust treatment.

25.2 An employee shall, within fourteen (14) days of the alleged violation or discovery thereof, process the grievance in the following manner:

Step I

25.3 Oral Discussion: The aggrieved employee with a steward will discuss the matter with the Lieutenant in an effort to resolve the issue.

Step II

25.4 If the matter is not resolved in Step I, it shall be reduced to writing and presented to the Chief within fourteen (14) calendar days of the oral discussion answer. The Chief shall schedule a formal meeting within seven (7) calendar days and attempt to resolve this issue. The parties shall make available for examination all information they intend to present as evidence at this level of the grievance procedure. Within seven (7) calendar days of the meeting the Chief shall present his/her answer to the Steward in writing.

Step III

25.5 If the Union is not satisfied with the answer at Step II, the grievance shall be submitted to the Police Commission by the Chief within seven (7) calendar days. The Police Commission will hear the grievance at its next regular meeting. The Police Commission will answer the grievance in writing within ten (10) calendar days of the hearing.

25.6 If the union is not satisfied with the disposition of the grievance and wishes to file for arbitration, such action must take place within thirty (30) calendar days from the date of the written answer from the Police Commission. Arbitration shall be in accordance with the rules of the American Arbitration Association or Federal Mediation and Conciliation Services, which shall likewise govern the arbitration proceedings. The Arbitrator shall confine his/her decision to the Agreement or a specific rule or policy. The Arbitrator shall have no power to alter, add to, or subtract from the terms of this Agreement. Both parties agree to be bound by the Award of the Arbitrator. The fees and expenses of the Arbitrator shall be shared equally by the employer and the union.

The CBA also provided that the state health care cap plan as adopted by the township board applied. Article 27.10(c) states that "[a]n employee who retires under the provisions of Article 12 shall have the same hospital and medical coverage (or equivalent) as he/she was receiving upon retirement" subject to some stipulations.

The CBA included a provision adopting local ordinances by reference in Article 30.1:

> 30.1 The parties further agree that any existing ordinance and resolutions of the Township Board as of the date of ratification of this contract relating to working conditions and compensation of bargaining unit employees are incorporated herein by reference and made part hereof to the same extent as if they were specifically set forth, providing that they are not in conflict with the terms of the agreement.

And Article 31 provided for "Management Rights," and states in part:

> 31.1 The Township, on its own behalf and on behalf of its electors, hereby retains and reserves unto itself, all powers, rights, authorities, duties and responsibilities conferred upon and vested in it by the law, the Constitution of the United States and the State of Michigan, and all amendments made thereto and conferred upon and vested in it by virtue of any ordinance or resolutions passed by the elected officials of the Township not in conflict with the express provisions of this Collective Bargaining Agreement.

On February 3, 2017, GIPOA filed grievance 7-37.[1] GIPOA stated that a recently retired member had an increase in their monthly health care insurance premium from $77.00 to $122.00. GIPOA believed that this was in violation of Article 27.10(c) of the CBA that provided that retirees would have the same hospital and medical coverage (or equivalent) as the member received upon retirement. GIPOA requested that plaintiff "[c]orrect the increase and reimburse all overages paid by those affected." The written answer to Step I by the police chief provided: "This grievance cannot be handled by police [management] nor the police commission. The following is not denied at this step and will be turned over to [the township] manager."

Township Manager Dale Reaume denied grievance 7-37, stating that "[t]he township shall treat a retiree on the same basis as all active employees covered by the bargaining agreement for the purposes of medical insurance premium payments under the Hard Cap." Therefore, retirees would be required to make monthly insurance premium increases on the same basis as active employees, and this was in compliance with the CBA, according to Manager Reaume.

Grievance 7-37 proceeded to Step III, and a hearing was held at the police commission monthly meeting on May 9, 2017. The police commission was presented with an e-mail from Manager Reaume, who recommended denial of the grievance. Two members of the police commission "questioned whether the Police Commission was the venue to hear Step III of Grievance 7-37." Ultimately, the grievance was granted by a three-to-two vote in favor of GIPOA

[1] Both parties refer to grievance 7-37 as 17-37 in their briefs on appeal, even though the grievance form dated February 3, 2017, is clearly numbered as 7-37. The two are used interchangeably, although no grievance form for 17-37 is included in the lower court record. Because the grievance form and the police commission decision use "7-37" as the grievance number, it will be referred to as such.

because three police commission members agreed with GIPOA's argument that the CBA was not followed.

On September 7, 2017, GIPOA filed grievance 17-280, grieving plaintiff's refusal to comply with the police commission's decision in 7-37. The police chief granted 17-280 at Step I, reasoning that the grievance process under the CBA was followed. Plaintiff again answered that it would reject the grievance. Plaintiff maintained that the grievances were not procedurally or substantively arbitrable for several reasons. In particular, plaintiff asserted:

> 5. The Grievances are not procedurally or substantively arbitrable. The Police Commission did not have authority to render a final decision binding on the Township in Grievance No. 7-37, which grievance forms the basis for Grievance Nos[.] 17-258 and 17-280. The Police Commission does not have the authority to bind the Township's Board of Trustees to, or compel, a budget amendment that would arise from the Union's remedy claimed in the Grievances (See Ch. 67 Art. I and III Township Ordinances, Articles 25 and 31 of the 2016-2022 Agreement). Moreover, the Police Commission has no authority to bargain over terms and conditions of employment with the Union and any changes [in] terms and conditions must be ratified by the Township Board of Trustees in order to have force and effect. The Township Board has not ratified any changes in the terms and conditions of the 2016-2022 Agreement.

POAM then filed a demand for arbitration, and the arbitration hearing was held on January 8, 2018. The arbitrator issued the arbitration opinion and award, and determined that the CBA only allowed the union to arbitrate a grievance decision, not plaintiff, and therefore, plaintiff could not appeal the police commission decision regarding grievance 7-37, and the arbitrator could not render a decision. The arbitrator remanded the matter back to the parties to negotiate for 60 days, and if the parties did not reach an agreement, plaintiff could file an action in circuit court challenging the police commission decision. If plaintiff was successful in setting aside the police commission decision in circuit court, the matter would return to the arbitrator for a decision on the merits. If plaintiff was unsuccessful in circuit court, or failed to file in circuit court, the police commission decision was enforceable.

The parties did not reach an agreement through negotiations, so plaintiff filed a complaint seeking two counts of declaratory and injunctive relief that the police commission violated local ordinances and state law in deciding the grievance. Defendants filed an answer to the complaint and affirmative defenses, and then each party filed a motion for summary disposition, responsive briefs, and reply briefs. The circuit court held a short hearing on the motions for summary disposition, and took the matter under advisement. On March 22, 2019, the court entered an order granting plaintiff's motion for summary disposition, and denying defendants' motion for summary disposition.

II. STANDARD OF REVIEW

Plaintiff filed its motion for summary disposition under MCR 2.116(C)(9) and (C)(10), and defendants filed their motion for summary disposition under MCR 2.116(C)(8) and (C)(10). The trial court did not specify in its order under which subrule it granted plaintiff's motion. When a

trial court fails to specify the subrule, the reviewing court assumes that summary disposition was granted under the subsection cited in the party's motion, and on which the movant's argument was based. *Village of Dimondale v Grable*, 240 Mich App 553, 564; 618 NW2d 23 (2000).

Regardless, a trial court's decision whether to grant or deny a motion for summary disposition is reviewed de novo. *Co of Ingham v Mich Co Rd Comm Self-Ins Pool*, 321 Mich App 574, 579; 909 NW2d 523 (2017). Issues of statutory interpretation and contract interpretation are also reviewed de novo. *Id*.

> Summary disposition under MCR 2.116(C)(9) is appropriate when a defendant fails to plead a valid defense and no factual development could defeat the plaintiff's claim. A motion for summary disposition under MCR 2.116(C)(9) tests the sufficiency of a defendant's pleadings, [and] the trial court must accept as true all well-pleaded allegations[.] To decide a motion for summary disposition under MCR 2.116(C)(9), the trial court may only consider the pleadings, which include complaints, answers, and replies, but do not include the motion for summary disposition itself.
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> Summary disposition is proper when there is no genuine issue of material fact. MCR 2.116(C)(10). A motion for summary disposition under MCR 2.116(C)(10) tests the factual sufficiency of a claim. This Court considers the affidavits, pleadings, depositions, admissions, and other the [sic] evidence submitted in the light most favorable to the nonmoving party. [*Id*. at 579-580 (quotation marks and citations omitted).]

"A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint." *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999). "All well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant." *Id*. Summary disposition under MCR 2.116(C)(8) is only appropriate when "the claims alleged are so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Id*. (quotation marks and citation omitted). The Court may only consider the pleadings when deciding a motion for summary disposition under MCR 2.116(C)(8). *Id*. at 119-120.

When a trial court fails to specify the court rule under which it grants summary disposition, but clearly considered evidence outside the pleadings, this Court reviews the decision as though made under MCR 2.116(C)(10). *Cuddington v United Health Servs, Inc*, 298 Mich App 264, 270; 826 NW2d 519 (2012). The trial court made no indication whether it considered evidence outside the pleadings at the hearing or in its order. Therefore, review under each subrule is appropriate.

III. LACK OF WRITTEN OPINION

As an initial matter, we note the argument made by both parties that the trial court erred in rendering its decision on the motions for summary disposition without providing an opinion explaining its decision. Plaintiff argues that this Court may remand the case to the circuit court for issuance of a reasoned decision on the merits.

Courts generally speak through their judgments and decrees rather than their oral declarations or written opinions. *Arbor Farms, LLC v GeoStar Corp*, 305 Mich App 374, 387;

853 NW2d 421 (2014). In addition, "it is not for a party to determine the validity of a court's order[.]" *Id*. at 388. Rather, trial courts have the inherent power to "manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Maldonado v Ford Motor Co*, 476 Mich 372, 376; 719 NW2d 809 (2006). An exercise of this inherent power is only disturbed when there was a clear abuse of discretion. *Id*. at 388. Moreover, "[f]indings of fact and conclusions of law are unnecessary in decisions on motions unless findings are required by a particular rule." MCR 2.517(A)(4). See also *Mich Nat'l Bank v Metro Institutional Food Serv, Inc*, 198 Mich App 236, 241-242; 497 NW2d 225 (1993). MCR 2.116 does not require findings of fact when a court makes a decision on a motion for summary disposition. Therefore, the trial court was not required to provide its findings of facts or conclusions of law in granting plaintiff's motion for summary disposition. MCR 2.517(A)(4); *Mich Nat'l Bank*, 198 Mich App at 241-242.

This Court is not tasked with deciding the merits of GIPOA's grievance in 7-37. Rather, the issue before this Court is whether the police commission had the authority to hear and decide grievance 7-37. This requires analysis of the PERA, principles of contract and statutory interpretation, and their application to the CBA and local ordinances at hand.

IV. THE PERA

"The PERA governs the relationship between public employees and governmental agencies." *Macomb Co v AFSCME Council 25*, 494 Mich 65, 77-78; 833 NW2d 225 (2013). "It represents the Legislature's intent to 'assure[ ] public employees of protection against unfair labor practices, and of remedial access to a state-level administrative agency with special expertise in statutory unfair labor practice matters.' " *Id*. at 78 (citation omitted). MCL 423.215(1) requires public employers to bargain in good faith "with respect to wages, hours, and other terms and conditions of employment, ..." The calculation of retirement benefits is a mandatory subject of collective bargaining, *Macomb Co*, 494 Mich at 78, as are health insurance benefits, *Ranta v Eaton Rapids Pub Sch Bd of Ed*, 271 Mich App 261, 270; 721 NW2d 806 (2006). A refusal to bargain constitutes an unfair labor practice remediable by the Michigan Employment Relations Commission (MERC). *Macomb Co*, 494 Mich at 78.

"Our Supreme Court has held that PERA is 'the dominant law regulating public employee labor relations.' " *Ranta*, 271 Mich App at 265-266, quoting *Rockwell v Crestwood Sch Dist Bd of Ed*, 393 Mich 616, 629; 227 NW2d 736 (1975). In *Local 1383 Int'l Ass'n of Fire Fighters v Warren*, 411 Mich 642, 649; 311 NW2d 702 (1981), the Michigan Supreme Court held that a provision in a CBA governing promotions that was entered into under the PERA was valid and enforceable, notwithstanding the conflicting provisions in state law or the city charter. "This Court has consistently held that the PERA prevails over conflicting legislation, charters, and ordinances in the face of contentions by cities, counties, public universities and school districts that other laws or the Constitution carve out exceptions to PERA." *Id*. at 655. This is so public employers and employees have the freedom to collectively bargain as contemplated by the PERA. *Kalamazoo Police Supervisor's Ass'n v Kalamazoo*, 130 Mich App 513, 524; 343 NW2d 601 (1983). See also *AFSCME Council 25 v Wayne Co*, 292 Mich App 68, 86; 811 NW2d 4 (2011); *Central Mich Univ Faculty Ass'n v Central Mich Univ*, 404 Mich 268, 279; 273 NW2d 21 (1978) ("PERA was intended by the Legislature to supersede conflicting laws[.]").

V. PRINCIPLES OF CONTRACT INTERPRETATION

In *Kendzierski v Macomb Co*, 503 Mich 296, 311-313; 931 NW2d 604 (2019) (quotation marks, footnotes, and citations omitted), the Michigan Supreme Court explained in detail that the general principles of contract interpretation apply to CBAs:

> Our goal in contract interpretation is to give effect to the intent of the parties, to be determined first and foremost by the plain and unambiguous language of the contract itself. If the contractual language is unambiguous, courts must interpret and enforce the contract as written, because an unambiguous contract reflects the parties' intent as a matter of law. However, if the contractual language is ambiguous, extrinsic evidence can be presented to determine the intent of the parties.
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> A contractual term is ambiguous on its face only if it is equally susceptible to more than a single meaning. In addition, if two provisions of the same contract irreconcilably conflict with each other, the language of the contract is ambiguous. However, ambiguity is a finding of last resort[.] That is, a finding of ambiguity is to be reached only after all other conventional means of interpretation have been applied and found wanting. [W]e will not create ambiguity where the terms of the contract are clear. [C]ourts cannot simply ignore portions of a contract . . . in order to declare an ambiguity.
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> A fundamental tenet of our jurisprudence is that unambiguous contracts are not open to judicial construction and must be *enforced as written*. Courts enforce contracts according to their unambiguous terms because doing so respects the freedom of individuals freely to arrange their affairs via contract. The general rule of contracts is that competent persons shall have the utmost liberty of contracting and that their agreements voluntarily and fairly made shall be held valid and enforced in courts. When a court abrogates unambiguous contractual provisions based on its own independent assessment of reasonableness, the court undermines the parties' freedom of contract. This approach, where judges divine the parties' reasonable expectations and then rewrite the contract accordingly, is contrary to the bedrock principle of American contract law that parties are free to contract as they see fit, and the courts are to enforce the agreement as written absent some highly unusual circumstance, such as a contract in violation of law or public policy. The rule of reasonable expectations clearly has no application when interpreting an unambiguous contract because a policyholder cannot be said to have reasonably expected something different from the clear language of the contract.
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> These contract principles apply to CBAs just as they do with regard to any other contract. As this Court has explained:
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> > The foundational principle of our contract jurisprudence is that parties must be able to rely on their agreements. This principle applies no less strongly to collective bargaining agreements: when parties to a collective bargaining agreement bargain about a subject and memorialize the results of their negotiation in a collective bargaining agreement, they create a set of enforceable rules—a new

> code of conduct for themselves—on that subject. A party to the collective bargaining agreement has a right to rely on the agreement as the statement of its obligations on any topic covered by the agreement.

VI. LOCAL ORDINANCES AND STATE LAW

Plaintiff asserts that the police commission's grievance decision was in violation of local ordinances. Grosse Ile Township Ordinance, § 67-1 provides regulations that apply to township commissions.

> (1) Each Township commission is part of the administration of the Township, not an independent agency. In making decisions, commissions have only those powers and authorities delegated to them by the Board. A commission shall make its decisions within such authority granted to it by the Township Board. The existence of potential lawsuits with respect to commission conduct or action shall be reported to the Township Board when the matter first comes to the attention of the commission. [Grosse Ile Township Ordinance, § 67-1(A)(1).]
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> (1) All commission employees are employees of Grosse Ile Township. The Township Board has established overall comprehensive personnel policies which include wage and fringe benefits and which apply to all Township employees, including personnel hired and who work for commissions. Personnel hired and who work for commissions shall follow the comprehensive personnel policies established by the Township Board with respect to commission employees and personnel. The Township Board shall establish wages, hours and all other conditions of employment with respect to all personnel hired by commissions. Collective bargaining, where applicable, will be conducted through representatives appointed by the Township Board. Commissions shall make recommendations to the Township Board as to wages, hours, and conditions of employment of commission employees and personnel and with respect to the contents of proposed collective bargaining agreements, where applicable. [Grosse Ile Township Ordinance, § 67-1(D)(1).]

The police commission was established under Grosse Ile Township Ordinance, § 67-8. The police commission's duties are specified in Grosse Ile Township Ordinance, § 67-10, which provides that "the following delegated authority, powers, duties and responsibilities shall be specified and shall contain no implied power not otherwise specified unless a following specific grant of power specifically provides for the existence of such implied power as is reasonably necessary for the exercise of the specifically delegated power[.]" The police commission was delegated the power to develop the proficiency and professionalism of the police department, Grosse Ile Township Ordinance, § 67-10(A); develop rules, regulations, and standards of conduct of the police department, Grosse Ile Township Ordinance, § 67-10(B); develop an organizational structure of the police department, Grosse Ile Township Ordinance, § 67-10(C); to hire police department personnel, Grosse Ile Township Ordinance, § 67-10(D); and

> The Police Commission shall have and is delegated the power and authority to reprimand, discipline, suspend, demote or discharge any member of the Township's Police Department after hearing thereon, provided that involving the demotion or discharge of any member of the Township's Police Department shall require Township Board approval prior to implementation thereof and shall, in all respects, be subject to the terms of the then-existing collective bargaining agreements between the Township and the Police Officers Associations. [Grosse Ile Township Ordinance, § 67-10(E).]

Plaintiff claims that the police commission decision is also in violation of several state statutes, including MCL 41.76, which provides that "[t]he township treasurer shall receive and take charge of money belonging to the township, or that is by law required to be paid into the township treasury, and shall pay over and account for the money, according to the order of the township board, or the authorized officers of the township." MCL 141.411 *et seq.* governs budget hearings of local governments, and MCL 141.421 *et seq.* is the uniform budgeting and accounting act for local governments.

VII. ANALYSIS

The trial court erred when it granted plaintiff's motion for summary disposition and denied defendants' motion for summary disposition. Defendants are entitled to summary disposition as a matter of law. MCR 2.116(C)(10).

The CBA is clear and unambiguous. *Kendzierski*, 503 Mich at 311. The police commission is granted authority to hear grievances at Step III of the grievance procedure under the CBA at Article 25.5 ("If the Union is not satisfied with the answer at Step II, the grievance shall be submitted to the Police Commission."). There is no language in the CBA that limits what types of grievances the police commission may hear. Rather, a "grievance" is broadly defined by the CBA in Article 25.1 as

> a complaint by the Association and/or an employee or group of employees based upon an event, condition or circumstance under which an employee works, allegedly caused by a violation, misapplication or misinterpretation of any of the provisions of this agreement or any unfair, inequitable or unjust treatment.

Plaintiff agreed to this language when it entered the CBA with defendants, and the township board ratified the contract. "The general rule of contracts is that competent persons shall have the utmost liberty of contracting and that their agreements voluntarily and fairly made shall be held valid and enforced in courts." *Id.* at 312 (quotation marks and citation omitted). This applies to CBAs. *Id.* at 313. And this clear and unambiguous language must be enforced as written. *Id.* at 312.

It is also clear that the CBA incorporated the local ordinances by reference, Article 30.1, and plaintiff retained all powers vested in it by local ordinance, Article 31.1. However, each of these articles contained the same qualifying language. The parties agreed that local ordinances were incorporated by reference "providing that they are not in conflict with the terms of the agreement," Article 30.1, and plaintiff was vested with authority by local ordinances "not in conflict with the express provisions of this [CBA]," Article 31.1. To read the local ordinances in

the fashion asserted by plaintiff—that the police commission was limited by the ordinances in its authority to hear this grievance—would carve out an exception to the unambiguous language of the CBA granting the police commission authority to hear grievances at Step III, and therefore, is inconsistent with the CBA. As stated above, "the PERA prevails over conflicting legislation, charters, and ordinances." *Local 1383*, 411 Mich at 655. Here, the CBA prevails over the conflicting local ordinances. See also *Kyocera Corp v Hemlock Semiconductor, LLC*, 313 Mich App 437, 447; 886 NW2d 445 (2015) ("[C]ontracts must be read as a whole."); *Smith v Smith*, 292 Mich App 699, 702; 823 NW2d 114 (2011) (citation omitted) ("When a court interprets a contract, the entire contract must be read and construed as a whole. All the parts must be harmonized as much as possible[.]").

Lastly, plaintiff consistently argued in the trial court and on appeal that the police commission participated in improper bargaining over terms and conditions of employment. This did not occur. The police commission did not participate in any bargaining, but rather, fulfilled its role in the grievance process under Step III of the CBA. Therefore, the local ordinance that empowers the township board to "establish wages, hours and all other conditions of employment," and empowers the police commission to "make recommendations" as to the content of CBAs, was not violated. Grosse Ile Township Ordinance, § 67-1(D)(1). This is in line with the mandates of the PERA that public employers must bargain over mandatory subjects of bargaining, MCL 423.215(1), which includes retirement benefits, *Macomb Co*, 494 Mich at 78, and health care benefits, *Ranta*, 271 Mich App at 261. The parties had bargained over retiree health care benefits, and the police commission interpreted the CBA at Step III of the grievance procedure as provided in the CBA.

Therefore, the trial court erred in granting plaintiff summary disposition, and defendants are entitled to summary disposition as a matter of law because there is no genuine issue of material fact that the police commission had the authority to hear and decide this grievance under Step III of the CBA under the clear and unambiguous language of the contract. MCR 2.116(C)(10).

This resolves the issue on appeal, and therefore, it is unnecessary to address defendants' affirmative defenses as alternative reasons offered by defendants to reverse the trial court order granting plaintiff summary disposition.

The trial court order granting plaintiff summary disposition and denying defendant summary disposition is reversed, and this matter is remanded to the trial court for entry of an order granting defendants summary disposition. We do not retain jurisdiction.

/s/ Christopher M. Murray
/s/ Kathleen Jansen
/s/ Jane E. Markey