

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MONTGOMERY AREA SCHOOL DISTRICT,	: NO. 14 – 00,185
Plaintiff	:
	:
vs.	:
	: CIVIL ACTION
	:
MONTGOMERY AREA EDUCATION ASSOCIATION,	:
Defendant	: Preliminary Objections

OPINION AND ORDER

Before the court are preliminary objections filed by Defendant Association on February 10, 2014. Argument thereon was heard April 4, 2014.

Plaintiff School District brought the instant action seeking a declaratory judgment that the District is not required to arbitrate a dispute initiated by a teacher after receiving an unsatisfactory evaluation which did not result in a reduction in rank or salary.¹ The Association filed preliminary objections, contending the matter is indeed subject to arbitration and, in any event, that whether the matter is subject to arbitration is a decision for the arbitrator and not the court of common pleas. Because the court agrees with the second contention, whether the matter is subject to arbitration cannot be addressed herein.

In Abington Heights School District v. PLRB, 709 A.2d 990, 993 (Pa. Commw. 1998), the Commonwealth Court repeated its previous holding of Chester Upland School District v. McLaughlin, 655 A.2d 621, 629 (Pa. Commw. 1995), *aff'd per curiam*, 675 A.2d 1211 (Pa. 1996):

We hold that Section 903 of PERA is not silent as to whether the arbitrator has jurisdiction because our Supreme Court in Bald Eagle has interpreted that section to mean that *the arbitrator has sole and exclusive jurisdiction to hear disputes related to collective bargaining agreements, including disputes of whether a matter is arbitrable.*

¹ The Association had taken the position that the dispute was subject to the Collective Bargaining Agreement between the parties and thus the teacher was entitled to arbitrate the dispute under that agreement. The District does not believe the matter is subject to the Agreement.

No higher court has rendered this holding inapplicable to the instant case, and the District is not able to explain why it should not be applied. Therefore, the court will enter the following:

ORDER

AND NOW, this 7th day of April 2014, for the foregoing reasons, the preliminary objection to jurisdiction is sustained. The District's Complaint is hereby DISMISSED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Randall Sees, Esq.
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Gary Weber, Esq.
Hon. Dudley Anderson