



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY :
AND MUNICIPAL EMPLOYEES, COUNCIL #68, :
AFL-CIO :

Complainant :

and :

TOWN OF PELHAM, NEW HAMPSHIRE :
BOARD OF SELECTMEN :

Respondents :

CASE NO. A-0465:3

DECISION NO. 81-21

APPEARANCES

Representing the Complainant, AFSCME:

David K. Pinsonneault, Esq., Counsel
James Hardy
Eugene Briggs
Ralph Boutwell, Chief
Frank O. Carleton
James Tamposi

Representing the Respondents, Board of Selectmen:

Robert Leslie, Esq., Counsel
Thomas J. Mahan, Administrative Assistant

BACKGROUND

The American Federation of State, County and Municipal Employees (AFSCME), Council No. 68 on May 13, 1981 filed improper practice charges against the town of Pelham and its Board of Selectmen alleging violation of RSA273-A:5 in the termination of one patrolman, James Hardy. AFSCME recited at length the record of Patrolman Hardy who was discharged during his alleged "probationary status".

This case came on for hearing on June 25, 1981. AFSCME's position was Patrolman Hardy's history of employment in the Pelham Police Department in various capacities and his eligibility to vote in a prior election under 273-A and that he was improperly relieved of his employment as he was considered a probationary employee.

Witnesses for both parties testified regarding Hardy's employment record and qualifications. Certain stipulated agreements between the parties as to

issues were made prior to hearing. The only issue considered was the temporary, permanent or probationary status of Patrolman Hardy.

DECISION AND ORDER

After hearing the testimony, PELRB issued the following oral order:

1. PELRB would not rule on the unfair labor practice charge but would retain jurisdiction of the issue, without prejudice to either party.
2. It was apparent that Patrolman Hardy and AFSCME had only that day become aware that the Town did not contest the membership of Patrolman Hardy in the bargaining unit.
3. In view of the agreement by Counsel for the Town that Patrolman Hardy was in fact a member of the bargaining unit, the matter was remanded to the parties for pursuit under the grievance procedure outlined in the existing agreement.



EDWARD J. HASELTINE, Chairman
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 4th day of August, 1981

By unanimous vote, Chairman Haseltine presiding, members Hilliard and Osman present and voting. Also present, Executive Director LeBrun.