

STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DISTRICT 1199 NEW ENGLAND HEALTH CARE  
EMPLOYEES UNION

v.

STRAFFORD COUNTY  
(RIVERSIDE REST HOME)

CASE NO. M-0537:9

DECISION NO. 81-34

APPEARANCES

Representing the Complainant, District 1199:

Richard Mirabito, Organizer

Representing the Respondent, Strafford County:

Terry Casey, Administrative Aide

Witnesses for the Complainant:

Marlene Royer, LPN  
Norene Sauls, RN  
Becky Hartford, LPN

BACKGROUND

This matter came on for hearing before the Board on September 3, 1981, pursuant to an improper practice charge brought by District 1199 against Strafford County on July 21, 1981. Essentially, the charge alleges that the County has violated the rights granted to District 1199 under RSA Chapter 273-A by failing to treat District 1199 as the exclusive bargaining agent for the employees, and speaking directly with the employees concerning a raise in wages.

The County denied the charge, essentially taking the position that its communications with the employees were limited to telling them that it would seek the assent of District 1199 to such a wage increase effective August 1, 1981.

FINDING OF FACTS

The facts underlying this dispute are in large part undisputed. On July 20, 1981, Terry Casey, acting administrator of the County, sent a letter to the representative of District 1199 requesting its assent to a raise of \$.50 per hour for the

professional employees (RNs and LPNs), at the Riverside Rest Home. This letter was motivated by the need to attract and retain qualified professionals from the labor market.

Later that day Mr. Casey had occasion to speak with one or more groups of employees, union members and non-union members, and inform them of the intent of the County to institute this wage increase effective August 1, 1981. Some dispute arises as to the precise words used by Mr. Casey, that is, whether he indicated it was the intent of the County or it was the intent of the County subject to the approval of District 1199, but this issue is not critical to our resolution of the case.

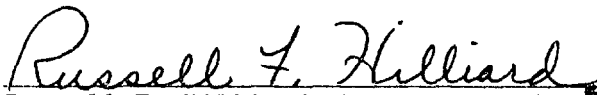
The subsequent activity or lack of activity involving negotiation of such a mid-contract wage raise is not pertinent to this case, inasmuch as the unfair labor practice, if it occurred, occurred on July 20, 1981.

It is undisputed that District 1199 has been recognized as the exclusive bargaining agent for the unit of employees at the Riverside Rest Home. As such, certain rights accompany this certification. One such right is to represent the bargaining unit exclusively. RSA 273-A:11(I) (b). This exclusivity granted to the representative imposes a duty on the employer to restrict its activity concerning changes in the terms and conditions of employment to communications with the representative. Any direct communication with the employees outside of the normal channels of negotiation with the representative should and must be avoided.

#### DECISION AND ORDER

On this basis, the Board finds the County guilty of an unfair labor practice for violation of RSA 273-A:5(I) (g) for failing to comply with the rights accompanying certification which are possessed by District 1199. The Board further finds that this violation was unintentional and did not arise out of any bad faith on the part of the County or its representative.

The County is ordered to post a notice in a conspicuous place in all work areas covered by the District 1199 bargaining unit indicating in substance the following: District 1199 is the exclusive representative for the bargaining unit of employees of Strafford County. As such, it is the exclusive channel through which all information and negotiation concerning proposals to change terms and conditions of employment must go. Any communication from the County directly to employees is a violation of that right, and as such, a violation of New Hampshire law. It is important to the integrity of public employee labor relations that the employer respect those rights and it is the intention of the County and its representative to do so.

  
Russell F. Hilliard, Esquire, Member

Signed this 24th day of September, 1981.

By unanimous vote: Alternate Chairman Robert E. Craig, presiding, members Hilliard and Osman present and voting. Also present, Executive Director LeBrun.