



STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LITTLETON TEACHERS ASSOCIATION, NEA-  
NEW HAMPSHIRE

Complainant

v.

JAMES B. CURRAN, in his capacity as  
Superintendent, SAU No. 35,

JOHN MCCARTHY, in his capacity as  
Principal of Mildred C. Lakeway School

and

LITTLETON SCHOOL BOARD

Respondents

CASE NO. T-0241:2

ORAL DECISION NO. 81-69

APPEARANCES

Representing the Complainant, LTA:

John Fessenden, UniServ Director, Region V, NEA-NH

Representing the Respondents:

Roger Burlingame, Esquire

BACKGROUND

On September 21, 1981, Littleton Teachers Association by its representative, John Fessenden, UniServ Director, filed unfair labor practice charges alleging violations of RSA 273-A:5, 1 (a), (h) & (i) by denying Alice Greenwood personal leave under the provisions of the master contract, Article VIII-B which they claimed was specific in nature in that it clearly allowed an individual to personal leave without giving a reason. They further alleged that Alice Greenwood was denied proper access to the grievance procedure.

Attorney for the Respondents answered the charges by stating that the contract stated that teachers were allowed up to three days leave per school year without loss of pay to take care of "urgent or compelling personal business" (emphasis added), and it was found that Mrs. Greenwood's reason for the request was not considered "urgent and compelling" but merely for the purpose of extending her vacation.

The matter came on for hearing before the Board (PELRB) on December 10, 1981 and after hearing opening statement from representatives for the complainant and respondents and accepting a copy of the negotiated agreement, PELRB went into executive session to discuss the matter.

After a brief executive session, PELRB reconvened for a motion on the question of the grievance process.

Board Member Russell F. Hilliard moved, as follows, in resolution of proceedings heard by PELRB in the second case involving the Littleton School District:

MOTION: "That PELRB find that there was a failure to timely comply with the grievance procedure under the contract in the filing for a hearing before the School Board under Step 'D', and that having made that finding, that PELRB further request each party to the case to file memoranda with PELRB, taking a position on the following:

'Under what circumstances, if any, may PELRB consider an unfair labor practice alleging a breach of the collective bargaining agreement when the underlying claimant, for whatever reason, has failed to completely exhaust the applicable contract grievance procedure?'

"Now, with the understanding that the School Board may take the position that no such circumstances ever exist where PELRB might entertain such a complaint, and with the further understanding that the Association may take the position that PELRB can consider such an unfair labor practice complaint when the failure to comply with the time limits is excusable, or there was a good faith attempt to comply with the time limits, or that no prejudice resulted to the School Board for failure to comply with the time limits."

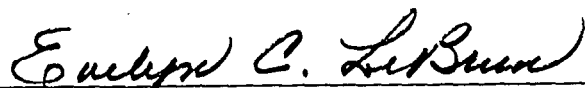
A second to the motion was made by Board Member, David L. Mayhew. Vote was taken and resulted in a unanimous vote.

A matter of clarification for both Counsel for the Respondents and representative for the Complainant, Board Member Hilliard replied in the affirmative to the question from Attorney Burlingame which was:

"I understood that a proposed memorandum discussing under what circumstances, if any, PELRB may consider an unfair labor practice, etc. Is it PELRB's intention to ask for memoranda of law specifically addressing this contract in question? Because, this language, I would suggest, is critical to that memorandum and there may be any number of other types of language in other contracts that would result in different answers. Should we compare it to address this contract here?

Memoranda to be submitted to PELRB no later than January 15, 1982 after which time PELRB will decide whether to hear the case.

Above oral order issued by Chairman Robert E. Craig on December 10, 1981



EVELYN C. LeBRUN, Executive Director  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

December 18, 1981