



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STRATFORD TEACHERS ASSOCIATION,
NEA-NEW HAMPSHIRE

Complainant

v.

STRATFORD SCHOOL DISTRICT AND LEWIS
ALLIN, MEMBER, STRATFORD SCHOOL BOARD

Respondent

CASE NO. T-0368

DECISION NO. 85-85

APPEARANCES

Representing the Stratford Teachers Association, NEA-New Hampshire

John Fessenden, UniServ Director, Region V

Representing the Stratford School District and Lewis Allin

Jay C. Boynton, Esq., Counsel

Also in Attendance

Lewis R. Allin, Stratford School Board
Charles Micciche, Superintendent of Schools
Dennis Reylands, NEA/NH
Linda A. Sullivan, NEA/NH
Harry Hikel, NEA/NH

BACKGROUND

This unfair labor practice charge invites us to revisit the issue of the extent to which participants in the negotiating process, resulting in a tentative agreement, have an obligation to seek ratification from the appropriate body. See generally Governor Wentworth Education Association, Decision No. 83-60. The facts underlying the issue are relatively undisputed.

The Stratford School District (employer) and the Stratford Teachers Association (Union) reached a tentative agreement in advance of the 1985 annual school district meeting. Although not material to our decision, apparently one school board member, Mr. Allin, objected to the settlement.

At the annual school district meeting, the article providing for the negotiated salary increases came on for consideration. When discussion was opened, a question regarding the salary increases was directed by the moderator to Mr. Allin, in his capacity as a school board member. After standing and responding to the inquiry, Mr. Allin continued and spoke forcefully against the tentative agreement, urging defeat of the article. Although he identified the second portion of his remarks as those of an individual, no member of the school board (all were

present) spoke in favor of the settlement or requested ratification by the voters. The article was overwhelmingly defeated.

The union further alleged that Mr. Allin urged voters to defeat the article while handing out the secret ballots. Mr. Allin denied having done this. We are not able to find it more likely than not that this conduct occurred, and therefore the union has failed to sustain its burden of proof on this point. In view of our disposition of this matter, however, it is immaterial.

FINDINGS OF FACT

The employer initially raised certain procedural issues concerning the sufficiency of the complaint in identifying the alleged violations and alleged violators. We find the complaint sufficient in this regard, and overrule these objections.


The Board is of the opinion that the school board, as a whole, committed an unfair labor practice. First, we have previously held that the statutorily-imposed obligation to bargain in good faith extends to the process of securing ratification of a tentative agreement. Second, in this particular case, the collective bargaining agreement between these parties imposes this obligation explicitly. The employer failed to meet this burden.

Although we do not decide that a dissident member of a negotiating team cannot voice opposition during the ratification process, someone representing the employer must support and seek ratification. Third, the other two board members remained silent as Mr. Allin criticized the tentative agreement. We cannot accept silence in the face of Mr. Allin's comments as compliance with the good faith obligation imposed by the statute (as interpreted by this Board) and the contract itself. Accordingly, we find the employer has committed an unfair labor practice.

DECISION AND ORDER

We now turn to the issue of the appropriate remedy. Unfortunately, despite the overwhelming defeat of the article, this Board cannot and must not assume that the same result would be reached if the employer had complied with its obligation. The only effective remedy is to order the employer to convene a special school district meeting as soon as reasonably possible to reconsider the article. The school board, as a board, must make a good faith effort to secure ratification.

The employer shall report its compliance herewith to this Board no later than sixty days from date of this decision.


JOHN M. BUCKLEY, Alternate Chairman

Signed this 24th day of October, 1985.

By unanimous vote. Alternate Chairman John M. Buckley presiding. Members Seymour Osman, Russell Hilliard and Richard Roulx present and voting. Also present, Executive Director Evelyn C. LeBrun.