



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STATE EMPLOYEES' ASSOCIATION OF NEW  
HAMPSHIRE, LOCAL 1984, S.E.I.U., AFL-CIO,  
CLC

Complainant:

v.

STATE OF NEW HAMPSHIRE, DEPARTMENT OF  
CORRECTIONS, N. H. STATE PRISON, and  
MICHAEL K. BROWN

Respondent:

CASE NO. S-0382:1

DECISION NO. 90-114

#### APPEARANCES

##### Representing the State Employees' Association of N. H.:

Christopher Henchey, Chief Negotiator

##### Representing the State of N. H. and Department of Corrections:

Thomas F. Manning, Manager, Bureau of Employee Relations

##### Also in attendance:

Michael K. Brown, Esq.  
Pierre Pauchet, D.O.C.  
Martin Boermest, D.O.C.  
Christopher Fray, D.O.C.  
Brian Jones, D.O.C.  
Dennis E. Kinnan, D.O.C.  
Bruche Wechsler, D.O.C.

#### BACKGROUND

On May 17, 1990, the State Employees' Association of New Hampshire, Local 1984, S.E.I.U., AFL-CIO, CLC (SEA) filed improper practice charges against the State of New Hampshire (State), more specifically against Thomas Manning, Manager, Bureau of Employee Relations, the Department of Corrections, New Hampshire State Prison Secure Psychiatric Unit, Division of Field Services and Michael K. Brown.

SEA charged that the State had violated RSA 273-A:5(e); i.e., on August 10, 1989, the parties jointly filed a petition for a Declaratory Judgment in the matter of six (6) bargaining units within the State who had voted to reject the agreement reached between the parties.

The Department of Corrections, one of the sub-units (N. H. State Prison, Secure Psychiatric Unit, Division of Field Services) was identified as one Dept. who rejected the negotiated collective bargaining agreement.

On November 14, 1989, PELRB by its Order No. 89-80 ordered that those items unique to those sub-units rejecting the agreement should be renegotiated by the State and SEA. Accordingly, the parties began those negotiations on March 14, 1990.

The charge further alleged that during the first negotiation session, SEA Chief Negotiator Christopher Henchey presented the State Negotiator, Thomas Manning and the Department of Corrections representative Michael K. Brown a package of proposals for review and response. The submission of this package contained items not discussed in the first round of negotiations leading to the completed collective bargaining agreement in 1989.

At the second session, April 6, 1990, the State Negotiator indicated that the new items contained in SEA's submission of March 14 constituted a breach of the "Rules and Negotiations" signed by the parties for the 1987-89 negotiations for the successor agreement and that the State would not negotiate with these units unless the SEA withdrew those items from each of the sub-unit proposals.

On May 17, 1990, Thomas Manning notified SEA that, quote: "I must reiterate the State's position that additional demands beyond those which were presented prior to the beginning of mediation, per our Rules of Negotiations, will not be considered."

In addition, SEA stated that it was their belief that new subjects could be brought up after rejection of any agreement and that the PELRB ordered negotiations sessions allowed this.

Hearing in this matter was held on July 5, 1990 in the office of the Board in Concord.

SEA's Chief Negotiator, Christopher Henchey summarized briefly the history of negotiations and the fact that the Department of Corrections was among the other sub-units who failed to approve the negotiated contract between the parties.

The "Rules of Negotiations were offered in evidence and (Exhibit #3, Page 2, Par. 7) state in part:

"The parties agree that no new proposals unless related as a counter-proposal shall be offered after the commencement of mediation unless mutually agreed upon by the parties",

and stated that the mediation process had been completed at the point of agreement on a new CBA.

Thomas Manning and Michael Brown indicated that the ground rules were still governing, that limited subject matter could be brought up in any negotiating session, raised the question as to whether or not those ground rules were continuing, whether or not they had expired, and whether or not new items could be submitted for discussion and/or negotiations for the sub-units.

SEA alleged that the State Negotiator's statement in refusing to consider any package put before it is a violation of PELRB's decision No. 89-80 and requested a finding of unfair labor practice, an Order to the State to bargain in good faith with the exclusive presentative, SEA for the employees of the State Prison, Secure Psychiatric Unit and the Division of Field Services; all sub-units of the Department of Corrections.

FINDINGS OF FACT

After considering all testimony, exhibits and written evidence offered at the hearing, PELRB makes the following findings:

1. A joint petition was submitted by the parties seeking clarification of actions which could be taken when any sub-unit failed to ratify the contract agreed upon by the majority of departments and whether or not negotiations could be reopened.
2. PELRB Decision No. 89-80 on the request for a declaratory judgment reads, as follows:

"Those items unique to the units rejecting the collective bargaining agreement shall be renegotiated by the State and the units which rejected the 1989-1991 collective bargaining agreement. Items of general applicability and cost items are adopted for state employees in all bargaining units. RSA 273-A:9 shall be interpreted in accordance with this decision for future state negotiations."

3. PELRB's in that decision ordered the parties to return to the table for the conduct of negotiations between the State and those sub-units which rejected the collective bargaining agreement for the 1989-1991 CBA. Items of general application or general applicability and cost items were adopted for the State and all bargaining units and accordingly could not be interpreted to be the subject of any further negotiations once the contract had been ratified by the State and the majority of employees.
4. PELRB found in its order that limitations could not be placed on the parties as to what subjects might or might not be placed on the table for consideration in the negotiations for the sub-units of the master contract.
5. Ground rules expire with the completion of collective bargaining and agreement reached unless otherwise continued through mutual agreement.

DECISION AND ORDER

The Board hereby ORDERS the parties to meet and negotiate in accordance with its decision No. 89-90 with no limitations on subject matter except for those items which are cost items. All items unique to sub-units are pertinent subjects of negotiations by and between the parties.

Signed this 25th day of October, 1990.

  
EDWARD J. HASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and E. Vincent Hall present and voting. Also present, Executive Director Evelyn C. LeBrun.