



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PROFESSIONAL FIREFIGHTERS OF NORTH
HAMPTON

Petitioner

and

TOWN OF NORTH HAMPTON, NEW HAMPSHIRE

Respondent

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CASE NO. F-0140

DECISION NO. 91-60

APPEARANCES

Representing the Professional Firefighters of North Hampton:

Glenn Milner, Esq., Counsel

Representing Town of North Hampton:

Robert R. Tawney, Consultant

Also appearing:

Newman Goodwin, Fire Chief
Richard J. Lynch, Selectmen
Richard P. Crowley, Chairman, Selectmen
Christopher J. LeClair, N.H.F.D.
Jim Colcord, N.H.F.D.
Paul J. Morin, N.H.F.D.
Peter Francis, N.H.F.D.
John Sylvester, N.H.F.D.
Ralph O'Connor, N.H.F.D.

BACKGROUND

Professional Firefighters of North Hampton (Firefighters) filed a petition on April 10, 1991 for certification of a bargaining unit consisting of eight (8) full time firefighters, EMT operator, three (3) full-time lieutenants and full-time deputy chief.

On April 22, the Town of North Hampton (Town) by its negotiator Robert R. Tawney filed an objection in accordance with PELRB rules 301.02 alleging that the make up of the proposed bargaining unit included supervisors which would place supervisors and employees in the same bargaining unit namely the supervisory responsibility of the lieutenants and the deputy chief. Alleging that the lieutenants and the deputy

chief exercised supervisory authority over the firefighters which prohibited them from belonging to the same bargaining unit in accordance with 273-A:8 11 further cited the Supreme Court Case N.H. and the Manchester School Committee case in which the court said that supervisory personnel should not be in the same unit as those persons over whom they exercise supervision and further alleged that if the lieutenants and the deputy fire chief were eliminated from the petition there would be an insufficient number to form a bargaining unit. The Town further requested that the PELRB deny the petition.

Hearing in this matter was held at the PELRB offices on July 30, 1991.

Attorney Milner for Local 3211 on behalf of the petitioners at the opening of the hearing stating that there was no conflict of interest or supervisory conflict with respect to the lieutenants who do firefighters work on a daily basis fighting fires, working a night shift a day shift, whatever the case might be and on occasion that the firefighters do lieutenants work and in fact the lieutenants are actually firefighters. Further indicated that in order that only one of the department who exercises supervision to any extent over members of the bargaining unit would be the deputy chief and stated the deputy chief might be excluded.

Robert Tawney negotiator for the Town indicated that the deputy chief is a management position should be excluded from the bargaining unit, as he has significant supervisory responsibility over members of the bargaining unit members.

Lt. David Colcord who had been with the department for ten years and eight years as a lieutenant testified that the lieutenant has no right to hire and fire, he could only recommend discipline and they work a regular shift as a firefighter on the daily schedules that he exercises very limited supervision over members of the fire department and that he considers himself to be a working fireman although possessing a title of lieutenant.

Questioning by the Town's negotiator elicited from the witness that he was a working supervisor, he did occasionally attend staff meetings and did evaluations once a year and he can only issue oral warnings and recommend action to be taken with respect to a fireman to the deputy chief or chief.

Other lieutenants and firefighters substantiated the testimony offered by Lt. Colcord.

Mr. Tawney for the Town said that the lieutenants and deputy chief should not be in the unit as they direct the work force, they are responsible for discipline, evaluating performance, attend staff meetings and can recommend suspension. Evaluation forms were offered in evidence.

Testimony was taken from Fire Chief, Norman Goodwin who described the operation of the department meetings with the supervisors and the duties of the deputy chief and lieutenant. Further testified that the lieutenants work with the firefighters, maintenance mechanical work and that the deputy chief works a regular shift along with firefighters but has some other duties, specifically the deputy chief can recommend to the chief discipline and does evaluations.

FINDINGS OF FACT

- L. Lieutenants exercise some supervision but on a very limited basis and are considered to be a full-time firefighter and do in fact work a regular shift along with the firefighters. The amount of supervision exercised was not of substantial significance other than routine working foreman type of supervision that might be exercised whenever the occasion demands.

ORDER

After reviewing the testimony, oral and exhibits, organizational charts, evaluation forms, job descriptions the following bargaining unit is hereby created;

Included in the unit, full time firefighter, EMT personnel, lieutenants.

Excluded from the unit, full time deputy chief based on his exercise of significant supervision over members of the unit.

An election to determine if the employees of the unit wish to be represented by the Professional Firefighters of North Hampton for the purpose of collective bargaining and settlement of grievances will be conducted by PELRB as expeditiously as possible in accordance with RSA 273-A:10 and PELRB Rules and Regulations Pub 303.

Signed this 9th day of September, 1991.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members E. Vincent Hall and Richard W. Roulx present and voting.