



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS, LOCAL 435

Complainant

v.

CITY OF CONCORD, NEW HAMPSHIRE
POLICE DEPARTMENT

Respondent

CASE NO. P-0750:1

DECISION NO. 91-80

APPEARANCES

Representing I.B.P.O., Local 435:

Peter Phillips, Esq., Counsel

Representing City of Concord:

Paul Cavanaugh, Esq., Counsel

Also appearing:

Brian W. Braley, City of Concord
Jim Fletcher, City of Concord
David G. Walchak, Police Chief
Eric Phelps, Police Dept.
Kevin Ganley, Police Dept.
Warren Foote, Police Dept.
Larry Kaupnik, Police Dept.
Karin Szyprezak, City of Concord
Julia Griffin, City of Concord

BACKGROUND

The International Brotherhood of Police Officers, Local 435 (IBPO) filed unfair labor practice charges against the City of Concord (City) Police Department alleging that Police Chief Walchak proposed to reduce officers' compensation for job preparation in November of '90 at which time IBPO demanded to negotiate over such change and the City refused. In January of '91, the City unilaterally implemented the change.

The City denied any violation of RSA 273-A stating it had not reduced compensation for job preparation but had reduced the amount of overtime it allowed for job preparation. It did admit, however, that IBPO had demanded to negotiate, over what it alleged was a change in compensation and the City does not and has not refused to bargain over payment for job preparation but has refused to bargain over matters within management rights. The question of how much time the City will allow for job preparation and whether or not it will allow job preparation to be performed on overtime is a matter within the exclusive prerogative of the City. They added that it eliminated the practice of allowing officers 15-minutes of overtime before the start of a shift for job preparation and are currently having administrative officers prepare for their jobs within the regular shift and patrol officers 5-minutes of job preparation at overtime prior to the start of their shift and if further preparation is needed, it is done during the regular shift hours; there has been no reduction in the hourly rate for the time spent in job preparation and officers are paid at their regular rate of pay or overtime rate as applicable. The issue of whether or not job preparation will be performed during the regular shift or before the start of the regular shift at overtime, the City answered, is not a subject for bargaining.

A hearing in this case was held in the Board's office in Concord on June 25, 1991 with all parties represented.

FINDINGS OF FACT

1. The unit was certified in accordance to RSA 273-A by PELRB in June of 1989.
2. Although the officers had for many years come in early for job preparation, they were paid for the overtime for the exact time worked and every officer had to put in a separate slip for the time worked. Slips had to be submitted with dates and amount of time spent and officers were paid for days worked only. If an officer was out sick or an annual leave, he did not received the overtime pay for prep time.
3. Due to a reduction in the budget, certain cuts had to be made. In reviewing the proposals, many discussions were held about possible layoffs, hours, etc. The general feeling was to avoid layoffs if at all possible.
4. In the past whenever an officer went to training, even for one day, he was not paid for prep time.
5. The City was aware that members of IBPO were unhappy about cutting the overtime for job preparation but the general feeling was that it was a better solution than lose position or have a layoff. The objective was to preserve positions.
6. The elimination of job preparation time was not a cutback in the officers "standard" workweek but merely a cutback on overtime.

DECISION AND ORDER

After considering all oral testimony and written evidence submitted at the hearing, the Board finds that the scheduling of overtime is within management's right, therefore the charge of unfair labor practice filed by IBPO against the City of Concord is hereby DISMISSED.

Signed this 4th day of October, 1991.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and E. Vincent Hall present and voting.