



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DURHAM POLICE OFFICERS ASSOCIATION/
STATE EMPLOYEES ASSOCIATION of NEW
HAMPSHIRE

Complainant

v.

TOWN OF DURHAM, NEW HAMPSHIRE

Respondent

CASE NO. P-0707:5

DECISION NO. 93-56

APPEARANCES

Representing Durham Police Officers Association:

Christopher Henchey, Chief Negotiator

Representing Town of Durham:

J. Joseph McKittrick, Esq., Counsel

Also appearing:

Kelley S. Fowler, Durham Police Department
Paul Gowen, Durham Police Department

BACKGROUND

The Durham Police Officers Association/State Employees Association of New Hampshire, Inc., (Union) filed a Modification Petition on December 15, 1992 seeking to have the position of clerk included in the existing bargaining unit. The Town of Durham (Town) filed its answer on January 5, 1993 after which this matter was heard by the PELRB on April 13, 1993.

FINDINGS OF FACT

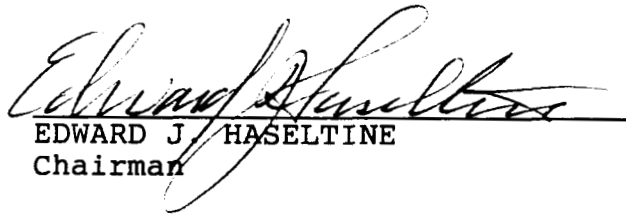
1. The Town of Durham, by and through its Police Department, is a "public employer" within the meaning of RSA 273-A:1 X.
2. The Durham Police Officers Association/State Employees Association of New Hampshire, Inc. is the duly certified bargaining agent for patrolmen, Patrol Sergeant and Secretary/Dispatcher employed by the Durham Police Department.
3. The Secretary (already in the bargaining unit) and the clerk (seeking inclusion in the unit) perform similar duties and are cross-trained to perform each other's duties in the case of sickness or absence.
4. The differences in the benefits package are minimal and not sufficient to keep one clerical employee separated from the other. Specifically, the secretary wears a uniform, receives a uniform allowance, may participate in education incentives under the contract, and receives an annual payment for holidays/personal days. The secretary is in the Group II retirement system only due to "grandfathering." Other benefits are similar. Both work in the same general area and service department needs, whether responding to the public, department personnel or the court system.
5. Neither the secretary nor the clerk is involved in collective bargaining. There is no evidence that either has a "confidential" relationship to the public employer under RSA 273-A:1 IX. Confidential matters have traditionally been handled by the Town Administrator's secretary in another office.
6. Neither the secretary nor the clerk is involved in a superior-subordinate relationship under RSA 273-A:8 II.
7. Neither the secretary nor the clerk is a sworn police officer. Both perform their work exclusively in and for the police department.

DECISION AND ORDER

Based on our findings of fact, there clearly is a community of interest between the clerk and the secretary. RSA 273-A:8 I, especially (c) and (d). Likewise, there has been inadequate rationale advanced to warrant exclusion of the clerk from the bargaining unit. We direct the addition of the clerk's position to the bargaining unit.

So ordered.

Signed this 30th day of April, 1993.



EDWARD J. HASELTINE
Chairman

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