



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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INTERNATIONAL BROTHERHOOD OF		:	
POLICE OFFICERS, LOCAL 624		:	
		:	
Complainant		:	
		:	CASE NO. P-0753:8
v.		:	
		:	DECISION NO. 93-77
TOWN OF EXETER		:	
		:	
Respondent		:	
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APPEARANCES

Representing IBPO, Local 624:

Peter C. Phillips, Esq., Counsel

Representing Town of Exeter:

David C. Engel, Esq., Counsel

Also appearing:

Paul D. Comeau, Local 624
George Olson, Town Manager
Stephen MacKinnon , Exeter Police Dept.

BACKGROUND

The International Brotherhood of Police Officers, Local 624 (Union) filed unfair labor practice charges against the Town of Exeter on February 8, 1993 alleging violations of RSA 273-A:5 I (a) and (e) relative to the alleged unilateral formulation and implementation of a "light duty" policy. The Town of Exeter filed its answer on February 23, 1993 after which this matter was heard by the PELRB on April 20, 1993.

FINDINGS OF FACT

1. The Town of Exeter (Town) is a "public employer" within the meaning of RSA 273-A:1 X.

2. The International Brotherhood of Police Officers (IBPO), Local 624 is the duly certified bargaining agent for police officers employed by the Town.
3. The Town and the Union are parties to a collective bargaining agreement (CBA) which will expire on December 31, 1993.
4. On March 18, 1992, Town Manager Olson sent a letter to Local President Paul Comeau reporting that the Selectmen had discussed the "enclosed Light Duty Policy" and asking for the Union's review and comments by April 1st.
5. On March 27, 1992 Comeau wrote Olson indicating that the Union considered "light duty" to be a mandatory subject of bargaining and requested bargaining prior to implementation.
6. Prior to August of 1992, the Town's Police Department had no policy pertaining to the assignment or use of "light duty" by members of the bargaining unit.
7. On or about August 5, 1992 the Town's Board of Selectmen amended the Town's Personnel Plan by implementing a "light duty" policy. This change occurred at a time when the IBPO was the duly certified exclusive bargaining agent for employees in the bargaining unit.
8. On August 7, 1992 Comeau wrote to Olson demanding that the Town rescind the light duty policy and that it be bargained.
9. On August 12, 1992, Olson wrote to Comeau saying that the Town did not consider the light duty policy to be a mandatory subject of bargaining and declining to rescind the new policy amendment.
10. Testimony from Comeau established, without rebuttal that the newly adopted "light duty" policy could and has resulted in a lessening of benefits to unit members receiving workers compensation benefits.

DECISION AND ORDER

There is pending before the PELRB a Motion to Dismiss this case because it was supposedly filed more than six months after the act complained of, i.e., implementation of the light duty policy. RSA 273-A:6 VII. We DENY that motion because the implementation did not occur until on or about August 5, 1992. It was not until on or after August 12, 1992 that Comeau knew that the Town was

rejecting the Union's demand that the policy be vacated. Meanwhile, the complaint was dated and notarized February 2, 1993 in Massachusetts. Since it was filed at the PELRB's offices on Monday, February 8, 1993, we presume posting on or before the last prior business day, February 5, 1993, in which case the complaint may be considered to have been timely filed. Even if this timeline were insufficient, the complained of conduct is of a continuing nature, bringing it within the six month time frame.

As for the disposition of the merits of this case, we find that the Town committed an unfair labor practice under RSA 273-A:5 I (e) by refusing to bargain about the light duty policy with the Union. Unrebutted union testimony established that the new policy is resulting in a diminution of benefits. It is equally compelling that the policy was unilaterally implemented by the Town while the Union's overtures to negotiate it were rejected. The implementation of the policy directly impacts both wages and working conditions. Therefore, it must be bargained. RSA 273-A:3.

By way of remedy, we direct the Town to **CEASE and DESIST** from continuing the implementation of the light duty policy and to engage in negotiations with the duly certified bargaining agent about the contents of such a policy and its impact on working conditions.

So ordered.

Signed this 23rd day of June, 1993.


 EDWARD J. HASELTINE
 Chairman

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