



by the P.E.L.R.B. on April 27, 1993.

FINDINGS OF FACT

1. The Town of North Hampton (Town) is a "public employer" of firefighters and other employees within the meaning of RSA 273-A:1 X.
2. The Professional Firefighters of North Hampton, Local 3211 (Union) is the duly certified bargaining agent for firefighters employed by the Town.
3. Firefighters have historically been hired at a wage of \$434.00 per week by the Town. This progresses to \$447.00 per week after the first six months if the employee makes satisfactory progress and to \$465.00 per week after the second six months which, collectively completes a one year probationary period. This pay schedule was in effect at the time the union was certified in 1991.
4. Charles Fredette, formerly a call firefighter for the Town, was hired as a temporary full time firefighter (to replace a full time firefighter out on workers' compensation) on July 10, 1991 at \$400.00 per week without benefits other than workers compensation and retirement coverage. On or after September 15, 1992, Fredette was advised by letter from Beverly Frenette, Administrative Assistant, that he had been appointed as a permanent firefighter at the rate of \$400.00 per week, retroactive to January 10, 1992 and that he would be eligible for two weeks vacation immediately. This also made Fredette eligible for other benefits such as sick leave, and medical and dental insurance.
5. At its meeting of June 24, 1991, the North Hampton Selectmen voted unanimously to freeze "salary, longevity and all other applicable pay effective June 15 for the 1991-92 fiscal year."
6. The last full time firefighter hired prior to Fredette was Jeffrey Brown who was hired in November of 1991 at \$434 per week according to retired Chief Newman Goodwin. Goodwin also testified that there had never been a prior practice of hiring a new full time firefighter at less than the rate paid to the immediately preceding full time firefighter who was last hired. Likewise, a bookkeeper was hired in November of 1991, during the wage freeze, and was given an \$2.00 per hour raise after three months, as promised at time of hiring.

7. After receiving notification of his full time status in September of 1992 and after having noticed no change in his weekly compensation, Fredette wrote to Chief Lambert on November 21, 1992 seeking the extra \$34 per week (the difference between \$434.00 and his salary of \$400.00 per week) retroactive to January 10, 1992, the date noted in his letter of notification of full time status. (Finding No. 4) He also sought a step increase to \$447.00 as of July 10, 1992, his six month mark based on a January 10, 1992 effective seniority date. After this request was denied by Lambert on November 30, 1992, Fredette wrote to the Selectmen on December 3, 1992 grieving his salary. By letter of December 15, 1992, Frenette wrote Fredette informing him that the Selectmen had denied his grievance.

#### DECISION AND ORDER

The complaint in this case was filed on February 10, 1993. It alleged pay inequities which were noticed to Fredette by the Frenette letter of September 15, 1992. Fredette cannot be held to account for events controlled by management prior to that date, i.e., he cannot be estopped from pursuing this case because of a retroactivity date set by the public employer, namely, January 10, 1992. Since the ULP on behalf of Fredette was filed within six months of his being first notified of his status as a full time firefighter, it was timely filed and the Town's motion to dismiss for failing to comply with RSA 273-A:6 III is DISMISSED.

Once Fredette was hired into a bargaining unit position, he was entitled to bargaining unit pay, as it existed at that time or any time otherwise directed by the public employer. In this case, the applicable date, set by the employer, was January 10, 1992. As of January 10, 1992, firefighter wage schedules, also heretofore set by the employee, for 1991-92 (Union Exhibit No. 1) called for an entry wage of \$434.00 for a full time firefighter. That is the wage rate to which Fredette was entitled.

Meanwhile, as of June 24, 1991, wages were frozen by the Selectmen. While Fredette was entitled to the entry rate of \$434.00 per week once he was put into a bargaining unit position, he was not entitled to progress to other rates reflected on the wage schedule, just as his counterparts were likewise not entitled to proceed on that schedule, during the freeze. Prior to the organization/formation of the union, it was within the Town's prerogative to freeze the wage schedule. It was not within its prerogative to treat Fredette any differently than other full time entry level firefighters, e.g., Firefighter Brown. We believe this conclusion to be strongly supported by the fact that other employees (e.g., Brown and the bookkeeper) received scheduled rates of pay or promised raises, respectively, during the course of the

wage freeze. This causes us to conclude that the freeze, appropriately, was intended to apply to position compensation, not to individuals. Thus, when Fredette moved to full-time status, he was entitled to full-time pay (\$434.00 per week). Conversely, he was not entitled to more than that (i.e., to move within the schedule itself) until other employees similarly situated were also entitled to progress on the wage schedule.

By way of remedy, we direct the Town to compensate Fredette at the rate of \$34.00 per week for those weeks on and after January 10, 1992 when he was paid only \$400.00 per week and to place him at the appropriate level of seniority on the pay scale to entitle him to similar and equitable treatment with other employees so situated.

So ordered.

Signed this 20th day of JULY, 1993.

  
EDWARD J. HASELTINE  
Chairman

By majority vote. Members Seymour Osman and E. Vincent Hall voting in the majority and Chairman Edward J. Haseltine voting in the minority.