



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

UNITED PROFESSIONAL BUS DRIVERS
OF CONCORD, United Auto Workers, Local 2232

Petitioner

CASE NO. M-0770:1

CONCORD SCHOOL DISTRICT

DECISION NO. 2000-033

Respondent

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The United Professional Bus Drivers of Concord filed unfair labor practice charges on January 24, 2000 pursuant to RSA 273-A: 5 I (a), (b), (c), (d) and (g) alleging that the City of Concord School District dominated, interfered and coerced an employee organizer during an organizational campaign by amending the employee's performance review and terminating the employee after the organizational campaign started. The Concord School District answers that the reason for the employee's termination was the employee's failure to sign the contract for employment presented to her and not for her participation in the organizational campaign. The organizing campaign is completed and the drivers have elected, as their exclusive representative, the United Auto Workers, Local 2232, which brings this complaint on behalf of the aggrieved employee. The primary relief sought by the complainant through the hearing process is the reinstatement of the employee to her former position and back wages.

PARTICIPATING REPRESENTATIVES

For the Complainant: Vincent A. Wenners, Jr., Esq.

For the Respondent: Edward M. Kaplan, Esq.

STIPULATED ISSUE(S)

The parties stipulated issue for determination by the Board is:

1. Did the Respondent School District's actions in terminating an employee/organizer during an organizational campaign constitute domination, coercion or interference with the employee in the exercise of her rights during the formation of the employee organization or constitute discrimination for the purpose of encouraging or discouraging membership in the employee organization ?

WITNESSES

For the Complainant: Employee Association

1. Kathleen Hill, the terminated employee and member of the organizing campaign
2. Douglas Howard, employee member of the organizing campaign
3. Ben Kimball, employee member of the organizing campaign
4. Sandy Anderson, employee member of the organizing campaign
5. Don Labrecque, employee member of the organizing campaign
6. William St. Laurent, employee

For the Respondent: School District

1. David Hardy, supervisor of the terminated employee
2. Gary Ford, assistant to David Hardy
3. Robert Prohl,, David Hardy's Supervisor
4. Curt Sokness, District Superintendant
5. Karen Daly, employee
6. Lisa Lacey, employee
7. Susan Power, employee

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

For the Complainant: Employee Association

1. Concord School Budget
2. Time cards
3. Employment contracts
4. Documents identified by the Respondent

For the Respondent: School District

1. Employment contract, dated 12/13/99, so-called "under duress" contract
2. Hill Memorandum, dated 12/16/99
3. Hardy memorandum, dated 12/15/99
4. Memorandum "To File", dated 12/15/99

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties, that each party may rely on the representations of the other that the exhibits listed above will be available at hearing

LENGTH OF HEARING

The representatives indicate that direct testimony of witnesses is estimated to be two (2) hours for the Complainant and two and one-half (2 ½) hours for the Respondent. However, these estimates are dependent upon the extent to which each side feels compelled to utilize witnesses in rebuttal. The time being set aside for this hearing is one-half day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than May 5, 2000.

DECISION AND PRE-HEARING ORDER

The party representatives shall exchange their final Witness and Exhibit lists and each shall fax a copy of their respective list to the PELRB no later than **Monday, May 22 at 4:30 PM**. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits prior to the time of hearing.

An evidenciary hearing between the parties in this matter is in order and is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on **Thursday, May 25, 2000 beginning at 9:30 AM.**

Signed this 12th day of April, 2000

A handwritten signature in black ink, appearing to read "Donald E. Mitchell", written over a horizontal line.

Donald E. Mitchell, Esq.
Hearing Officer