

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

CONCORD EDUCATION ASSOCIATION, *
NEA-NEW HAMPSHIRE and DAVID SHAGENA *

* CASE NO. T-0220-35

Complainant

* DECISION NO. 2000-059

CONCORD SCHOOL DISTRICT

Respondent

APPEARANCES

Representing the Complainant:

Steven Sacks, Esq.

Representing the Respondent:

Edward Kaplan, Esq.
Timothy Gudas, Esq.

BACKGROUND

The Concord Education Association, NEA-New Hampshire ("Association") filed unfair labor practice (ULP) charges on its behalf and on behalf of Daniel Shagena on July 6, 1999 against the Concord School District (District"). On October 13, 1999 the PELRB issued its order (Decision No. 1999-101) directing the District to comply with the Arbitrator's award to reinstate Mr. Shagena to his teaching position and make him whole for back pay and benefits forthwith. The PELRB further ordered that its order was to remain in effect until such time as a suspension of the PELRB's order had been sought and granted by the New Hampshire Supreme Court.

The District filed its Motion for Rehearing with the PELRB and it was denied on December 9, 1999. (Decision No. 1999-126) The District then made its appeal of the October 13, 1999 decision of the PELRB and its denial of the District's Motion for Reconsideration of December 9, 1999 to the New Hampshire Supreme Court. (Reference may be made to Supreme Court Case No. 2000-021). On January 21, 2000 the Association requested that the PELRB seek Superior Court support of its October 13, 1999 decision which the PELRB treated as a Motion to Enforce. The District responded to this request on February 10, 2000 specifically asking that the PELRB take no action in furtherance of enforcing its October 13, 1999 decision and its December 9, 1999 denial of reconsideration "until such time as the Supreme Court rules on the District's motion for an order suspending Board Decisions 1999-126 and 1999-101." (Paragraph #5). On March 20, 2000 the Supreme Court denied the District's Motion to Stay the decisions of the PELRB. On March 30, 2000 the District filed a Motion for Reconsideration of the Supreme Court's denial of the earlier request for a stay and the Association, on April 6, 2000, filed its Objection thereto. Despite the denial of a stay, the District continued to fail to abide by the outstanding orders of the PELRB.

The Association then requested again by letter of April 6, 2000, that the PELRB petition the Supreme Court to enforce its October 13, 1999 decision. The Board, after providing proper notice to the parties, conducted a hearing on the Association's Motion to Enforce on June 22, 2000, at which both parties were represented by counsel and made their respective arguments in support of their present positions.

DECISION

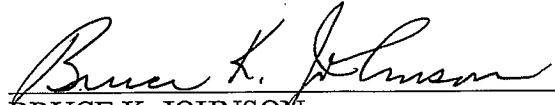
The Board has reviewed its decisions in this case. It has reviewed the pleadings offered by the parties in support and opposition to the Association's Motion to Enforce the October 13, 1999 decision supporting the arbitrator's award of reinstatement of Mr. Shagena and for payment of back wages and benefits.

After due deliberation, the Board finds no reason for the District to further delay the justice awarded to Mr. Shagena and the Association first by the Arbitrator and then as ordered by the PELRB. The District is, therefore, ordered to **immediately** comply with the decisions of this Board and implement the Arbitrator's award. Further, the District is ordered to notify the PELRB, by facsimile transmission with hard copy to follow, on or before July 17, 2000 that Mr. Shagena has been reinstated and has been made whole by compensation in accordance with the arbitrator's award and the decisions of this Board.

Failure on the part of the District to follow this decision and to provide the required information to the PELRB by July 17, 2000 shall result in the PELRB seeking relief from the Superior Court by way of injunctive relief pursuant to RSA 273-A:7 to enforce the Arbitrator's award, its decisions and for costs, sanctions and for such other relief as may be appropriate.

So ordered.

Signed this 8th day of July, 2000.



BRUCE K. JOHNSON
Alternate Chairman

By unanimous vote. Alternate Chairman Bruce K. Johnson presiding. Members Seymour Osman and E. Vincent Hall present and voting.