



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Sergeant Pat Palmer & New Hampshire Troopers Association		*	
		*	
		*	
		*	
	Complainant	*	Case No. P-0754-20
	v.	*	
		*	Decision No. 2008-129
		*	
State of NH Department of Safety, Division of State Police		*	
		*	
	Respondent	*	
		*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Sergeant Pat Palmer & New Hampshire Troopers Association (the "union") filed an unfair labor practice complaint on March 31, 2008 alleging that the State of New Hampshire, Department of Safety (the "state") committed an unfair labor practice in violation of RSA 273-A:5 I (h). The union contends that Sgt Palmer performs the duties of Assistant Troop Commander or Assistant Unit Commander and therefore is entitled to differential equivalent to a one grade pay increase. The union requests that the board: 1) declare that the state committed an unfair labor practice in refusing to pay Sgt. Palmer at Grade 25; 2) order that the state pay Sgt. Palmer at Grade 25; and 3) order such other relief as may be just.

The state filed its answer on April 22, 2008 and denies the charges. The state contends that Sgt. Palmer does not perform the duties necessary to receive the demanded one grade pay increase. The state requests that the board: 1) declare that the State of NH, Department of Safety did not commit an unfair labor practice; and 2) order such other and further relief as it deems just.

This matter was originally scheduled for pre-hearing on May 15, 2008 and hearing on June 5, 2008. The parties' joint motion to continue these hearing dates was granted. The undersigned hearing officer conducted a pre-hearing conference on June 18, 2008 at the offices of the Public Employee Labor Relations Board in Concord.

PARTICIPATING REPRESENTATIVES

For the Complainant: James Donchess, Esq.

For the State: Marta Modigliani, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

Whether Sgt Palmer is entitled to a one grade pay increase pursuant to section 19.18 of the parties' collective bargaining agreement?

WITNESSES

For the Complainant:

1. Thomas Manning, state negotiator
2. Col. Frederick Booth
3. Earl Sweeney, Assistant Commissioner
4. Sara Willingham
5. Captain Christopher Colitti, Sgt. Palmers' superior
6. Trooper Lou Copponi, negotiator
7. Trooper Robert Lima, negotiator
8. Trooper Jill Rockey, negotiator
9. Sgt. Cindy Parro
10. Sgt. Tom Lombardi, commander, aircraft unit
11. Sgt. Ned Giroux, commander, communications unit
12. Trooper Greg Ingham, works with Sgt. Palmer
13. Trooper Dan Needham, works with Sgt. Palmer

For the State:

1. Col. Frederick Booth
2. Thomas Manning
3. Earl Sweeney, Assistant Commissioner
4. Sara Willingham
5. Captain Christopher Colitti
6. Sgt. Thomas Lombardi

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 with 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 Complainants:

1. Collective Bargaining Agreements
2. Relevant supplemental job descriptions

For the State:

1. CBA covering period from 2004 to present
2. Relevant supplemental job descriptions
3. PSC Chapter 47-D
4. Relevant Job Classifications
5. 2007 Performance Evaluations
6. Sgt. Thomas Lombardi

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 with 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 understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

Four Hours

DECISION

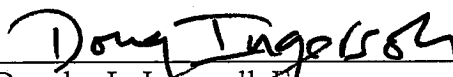
1. "Parties" means the named petitioner and respondent or the counsel/representative appearing in the case.
2. If the matter is to proceed to hearing the parties' shall meet, or otherwise confer, on or before July 8, 2008 in order to compose a mutual statement of agreed facts. The parties shall file their fact stipulations on or before the day of hearing.
3. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists at least 5 days prior to the scheduled hearing date. The parties shall meet, or otherwise arrange, to pre-mark any exhibits for identification prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
4. The state represents that Thomas Manning is unavailable on the scheduled hearing date due to pre-existing vacation plans. The parties agree that submission of Mr. Manning's testimony via a trial deposition transcript is an acceptable substitute for his

appearance as a witness on July 10, 2008. Accordingly, the board will keep the record open for 30 days after the July 10, 2008 hearing in order to allow the parties time to conduct a trial deposition of Mr. Manning and file the transcript. The parties shall request any extension of this 30 day period before the conclusion of the hearing on July 10, 2008.

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on **July 10, 2008 at 9:30 a.m.** at the offices of the Public Employee Labor Relations Board in Concord.

So ordered.

June 19, 2008.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:
James Donchess, Esq.
Marta Modigliani, Esq.