



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HAMPTON POLICE ASSOCIATION

COMPLAINANT

CASE NO. P-0719-21

v.

DECISION NO. 2008-198

TOWN OF HAMPTON

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: September 29, 2008 at the PELRB in Concord.

Appearances: J. Joseph McKittrick, Esq.
Elizabeth A. Bailey, Esq.

Background:

Hampton Police Association filed an unfair labor practice complaint on August 12, 2008. The Association complains that the Town hired non-bargaining unit employees to perform bargaining unit work. According to the Association, the Town created the position of Traffic Enforcement Officer, whose duties include the issuance of parking tickets, the enforcement of Town and State parking regulations, and possibly the direction of traffic. The Association claims all of these duties have been the exclusive work of police officers in the bargaining unit.

The Association asserts that the Town has violated RSA 273-A:5, (a), (b), (c), (e), (g), (h) and (i). As remedies, the Association requests that the PELRB: 1) prohibit Traffic Enforcement

Officers from performing bargaining unit work; and 2) order the Town to reimburse Association officers for lost wages as a result of work performed by Traffic Enforcement Officers.

The Town filed its answer to the complaint on August 29, 2008. The Town claims it has reactivated the position of non-sworn, civilian parking enforcement employee established in prior years. The Town disputes that parking enforcement employees wear uniforms that are similar to police officer uniforms. The Town also claims the complaint is untimely because it was filed more than 6 months after the selectmen and budget committee authorized the budget for parking enforcement employee and its appearance in the Town budget.

The Town requests that the PELRB: a) dismiss the above-captioned charges in its entirety (b) deny the Association's requested relief; c) award the Town its reasonable attorney's fees and costs; and d) grant such other relief to the Town as the PELRB deems just and appropriate under the circumstances.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Association's complaint is untimely?
2. Whether Traffic Enforcement Officers are improperly performing bargaining unit work?

WITNESSES

For the Association:

1. Steven Henderson
2. John Joyce
3. John Donaldson
4. All witnesses listed by the Town

For the Town:

1. Chief James B. Sullivan
2. Vic Demarco

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 Association:

1. All Department documents creating Traffic Enforcement Officers
2. Department Records – Parking Tickets
3. All Documents listed by the Town

For the Town:

1. See Attachment to Pre-Hearing Worksheet, appended to this order.

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.

DECISION

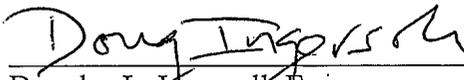
1. “Parties” means the named petitioner and respondent or the counsel/representative appearing in the case.

2. The parties shall exchange documents which they may use as exhibits on or before October 7, 2008.
3. The parties shall prepare and file a statement of stipulated facts and exhibits on or before November 14, 2008.
4. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists on or before November 14, 2008.
5. The parties shall pre-mark 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.
6. The Town shall file any motion to dismiss based upon its contention that the complaint is untimely on or before November 14, 2008. The Association shall file its objection to any such motion within 15 days of the date it is filed.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the evidentiary hearing between the parties will be held on **December 2, 2008 at 9:30 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.
September 30, 2008



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

Distribution:
J. Joseph McKittrick, Esq.
Elizabeth A. Bailey, Esq.