



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**TEAMSTERS LOCAL 633 OF
NEW HAMPSHIRE**

COMPLAINANT

CASE NO. G-0063-3

v.

DECISION NO. 2008-211

TOWN OF NEWMARKET

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 14, 2008 at the PELRB in Concord.

Appearances: Richard Laughton, Business Agent
J. Joseph McKittrick, Esq.

Background:

Teamsters Local 633 of New Hampshire (the "Union") filed an unfair labor practice complaint on September 11, 2008 alleging that the Town of Newmarket has implemented a policy and benefit program exclusively for the benefit of non-bargaining unit employees. The Union contends that as a result the Town is discriminating against employees in violation of RSA 273-A:5, I (c) who have joined the Union. As relief, the Union requests that the PELRB: 1) order the Town to cease and desist the discriminatory practice; 2) order the Town to provide the disputed benefits to all employees; and 3) order such other relief as the board deems appropriate.

The Town filed its answer on September 16, 2008. The Town denies the charges, and contends that the disputed benefits were properly withheld from bargaining unit employees in order to maintain the status quo pending contract negotiations. The Town states that it has not altered the terms of the personnel policy applicable to bargaining unit employees at the time the underlying election petition was filed on February 6, 2008 and that it properly adopted a new personnel policy on May 1, 2008 applicable to all non-bargaining unit employees. The Town asserts that the any change in terms and conditions of employment for bargaining unit members must be obtained through negotiations.

The Town requests that the PELRB: 1) find that the Town has not committed an unfair labor practice; 2) dismiss the complaint; and 3) order such other relief as may be just.

ISSUE FOR DETERMINATION BY THE BOARD

Whether the Town improperly failed to extend the provisions of the May 1, 2008 personnel policy to bargaining unit employees?

WITNESSES

For the Union:

1. Hector Hernandez
2. Joel Drelick
3. Bruce Rowe
4. Todd Gianotti
5. John Puchlopek

For the Town:

1. Ed Wojnowski, Town Administrator

EXHIBITS

For the Union:

1. Tally of Vote
2. ULP Charge
3. Letter to Town
4. 1994 Town Rules and Regulations
5. 2008 Personnel Policy
6. Hernandex Letter
7. Eastman Letter
8. Puchlopek Letter
9. Gliden Letter
10. Gianotti Letter

For the Town:

1. Union Election Petition
2. May 21, 2008 Town Personnel Policy
3. Pre May 21, 2008 Town Personnel Policy
4. Vote of Town Council accepting the Personnel Policy

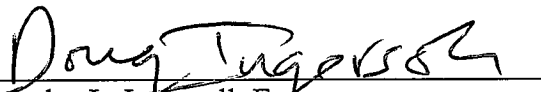
DECISION

1. "Parties" means the named petitioner and respondent or the counsel/representative appearing in the case.
2. The parties are currently in contract negotiations, with the next session scheduled for October 16, 2008. Based upon the representations of the parties, successful contract negotiations may result in the resolution of this complaint, and the parties agree that a detailed consideration of the facts and issues at the pre-hearing is premature at this time and a further pre-hearing should be scheduled for a later date. It is noted that the Union provided the Town with copies of its exhibits at the pre-hearing.

3. Given the current hearing date (January 13, 2009), a further pre-hearing is scheduled for December 15, 2008 at 9:00 a.m. in order to provide the parties with the time necessary to complete contract negotiations and possibly resolve this complaint. The parties shall promptly notify the board should this matter resolve before that date.

So ordered.

October 14, 2008



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

Distribution:

Richard Laughton, Business Agent
J. Joseph McKittrick, Esq.