



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**NEPBA LOCAL 250 & 255/NH CORRECTIONS
OFFICERS**

COMPLAINANT

**CASE NO. S-0437-2
AND S-0438-4**

v.

DECISION NO. 2008-212

**STATE OF NEW HAMPSHIRE,
DEPARTMENT OF CORRECTIONS**

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

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

Appearances: Kevin Buck, Esq.
Michael K. Brown, Esq.

Background:

NEPBA Local 250 and 255/NH Corrections Officers (the "Union") filed unfair labor practice complaints on September 4, 2008 alleging that the State of New Hampshire, Department of Corrections unilaterally and improperly reclassified certain bargain unit positions to non-bargaining unit positions without notice to or negotiations with the Union. The Union contends the State violated RSA 273-A:3; 273-A:5, I(e) and (g).

The Union requests that the PELRB: a) find the State in violation of RSA 273-A:3; b) find the State in violation of RSA 273-A:5 (e); c) find the State in violation of RSA 273-A:5 (g); d) order the State to rescind the reclassifications and return to status quo; e) order the State to bargain in good faith with the Union regarding any reclassifications of bargaining unit positions which effect the terms of employment of the Union membership; f) order payment of such costs, including attorney fees incurred by the Union; and g) order any other such relief the board deems adequate and necessary.

On September 22, 2008 the State filed its answer to the complaints. In Case No. S-0438-4, the State admits that one correctional sergeant's position was converted to a non-uniformed position at the employee's request to reflect the work being performed. The employee's request was made to the Division of Personnel, supported by the Department of Corrections and approved by Governor and Council. In Case No. S-0437-2, the State admits that 5 vacant correctional officer positions were converted to non-uniformed positions. The State denies any obligation to bargain the reclassification of bargaining unit positions.

The State requests that the PELRB: a) dismiss the complaints; and b) grant such other and further relief as justice may require.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the State was obligated to bargain the position reclassifications and/or the impact of the position reclassifications?

WITNESSES

For the Union:

Case No. S-0437-2

1. Ralph Woekel

Case No. S-0438-4

1. Paul Cascio
2. Neil Smith

For the State:

Case No. S-0437-2

1. Commissioner William Wrenn
2. Lisa Currier
3. Richard Gerry
4. Thomas Manning
5. Robert MacLeod
6. Benjamin Lewis
7. The State reserves the right to add additional witnesses.

Case No. S-0438-4

8. Commissioner William Wrenn
9. Lisa Currier
10. Thomas Manning
11. Larry Blaisdell
12. The State reserves the right to add additional witnesses.

EXHIBITS

For the Union:

1. Governor's Council minutes
2. Any documents in the possession of the Respondent relating to the reclassification process

For the State:

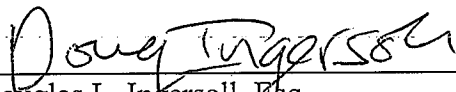
1. All personnel documents related to converting to the subject.
2. The State reserves the right to add additional exhibits.

DECISION

1. Cases S-0437-2 and S-0438-4 are consolidated for hearing.
2. At the pre-hearing the complainant moved to continue the hearing currently scheduled for November 18, 2008 as the complainant intends to request an amendment in a pending modification proceeding, Case No. S-0438-2, which may eliminate the need to proceed with these matters. Complainant's motion is granted and the hearing currently scheduled for November 18, 2008 is cancelled. This case shall be dismissed after 30 days unless one of the parties files a request for a hearing on or before November 14, 2008, in which event a further scheduling order will issue.

So ordered.

October 14, 2008



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

Distribution:
Kevin Buck, Esq.
Michael K. Brown, Esq.