



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**STATE EMPLOYEE'S ASSOCIATION OF NH,
SEIU LOCAL 1984**

COMPLAINANT

CASE NO. S-0428-5

v.

DECISION NO. 2008-220

STATE OF NEW HAMPSHIRE

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 30, 2008

Appearances: Complainant: Glenn R. Milner, Esq. for the
Respondent: Rosemary Wiant, Esq.

Background:

The State Employees Association of New Hampshire, SEIU Local 1984 (the "SEA") filed an unfair labor practice complaint on June 24, 2008. After filing, the SEA voluntarily dismissed certain claims, with the sole remaining claim relating to the manner in which the State bargained the Insurance Department sub-unit agreement. The SEA claims that State negotiators for the Insurance Department were unwilling to meet and discuss matters, relating in a delay from September of 2007 to January, 2008 before final agreement was reached. At the pre-hearing the SEA identified the Insurance Department Commissioner and Deputy as the missing

negotiators. The SEA contends that as a result the State violated RSA 273-A:5, I (e) (h) and (i), and the Insurance Department sub-unit agreement should be effective as of September 29, 2007.

The SEA requests that the PELRB: 1) find that the State has committed an unfair labor practice under RSA 273-A: 5, I (e),(h) and (i); 2) find that the Insurance sub-unit agreement is effective 9/29/2007; 3) order that the State make whole any losses suffered as a result of the unfair labor practices; and/or 4) make such other orders as is just.

On July 2, 2008 the State filed its answer denying the SEA's charge of unfair labor practice. The State claims that duly authorized representatives were present for negotiations and that the SEA's claim is time barred pursuant to RSA 273-A:6, VII.

A motion to continue a pre-hearing conference scheduled for July 24, 2008 was granted, and a previously scheduled hearing was cancelled at the parties' request. *See* PELRB Decision No. 2008-156. On September 19, 2008 the SEA filed a request for a new hearing date, and the parties appeared for further pre-hearing on October 30, 2008.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Commissioner and/or Deputy Commissioner improperly failed to attend bargaining session(s) thereby causing unjustified delay in reaching agreement, and if so did their absence violate RSA 273-A:5, I (e),(h) or (i) and should the Insurance Department sub-unit agreement be effective as of September 29, 2007?
2. Whether the SEA's complaint is untimely.

WITNESSES

For the SEA:

1. Dennis Kinnan, Contract & Field Operations Administrator, SEA
2. Gary Smith, President, SEA
3. Thomas Manning
4. Sara Willingham

For the State:

1. Sara Willingham
2. Tom Manning

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 SEA:

1. 2005-2007 collective bargaining agreement
2. Negotiation notes
3. Any and all pleadings in this matter
4. Any and all documents filed as exhibits to pleadings
5. Any document or exhibit included in the Respondent's exhibit list not otherwise introduced by the Respondent; and
6. Any and all documents required for impeachment purposes.

For the State:

1. All Exhibits listed in the Complainant's Pre-Hearing Worksheet.
2. The State reserves the right to add additional exhibits.

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

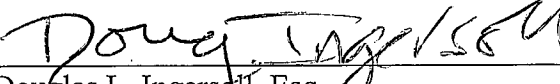
1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.
2. The SEA shall file an amended and restated complaint on or before November 5, 2008.
3. The State shall an answer to the amended and restated complaint on or before November 10, 2008.
4. The parties shall prepare and file a statement of stipulated facts on or before November 17, 2008.
5. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists on or before November 17, 2008.
6. The parties shall pre-mark all exhibits prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

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 **November 20th, 2008 at 9:30 am** 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.

October 30, 2008



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

Distribution:
Glenn Milner, Esq.
Rosemary Wiant, Esq.