

2009 SYNOPSIS

International Chemical Workers Union Council UFCW, Local 1046C v. Merrimack County Nursing Home and Merrimack County PELRB Case No. M-0738-9

The union filed an unfair labor practice complaint claiming that the county breached the collective bargaining agreement by refusing to comply with the arbitrator's award ordering reinstatement of a terminated employee. The county contended that the arbitrator's award violated public policy and exceeded the arbitrator's authority. The union prevailed on its unfair labor practice charge and the PELRB ordered the employee's reinstatement with back pay. The county appealed and the Supreme Court affirmed in part, vacated in part, and remanded the case for further proceedings. The employee was reinstated to her employment but was not reimbursed as the parties could not agree on the amount of back pay. On remand, the main issue was whether the reinstated employee's interim earnings as a Wal-Mart employee should be deducted as part of the back pay calculation.

The PELRB found that the award of back pay should include a deduction for the employee's interim earnings. The PELRB determined the amount of back pay the employee was awarded and denied the union's request for the award of attorney's fees and costs.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.