



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**NEPBA LOCAL 255/NH SUPERVISORY CORRECTIONS
OFFICERS AND INTERVENOR LOCAL 250/
NH CORRECTIONS OFFICERS**

COMPLAINANTS

CASE NO. S-0438-3

v.

DECISION NO. 2009-140

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

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: July 10, 2009

Appearances: Complainant: Glenn R. Milner, Esq.
Respondent: Michael K. Brown, Esq.

Background:

On August 1, 2008 NEPBA Local 255/NH Supervisory Officers filed an unfair labor practice complaint against the State of New Hampshire, Department of Corrections (State) alleging that the State violated RSA 273-A (e) and (g) by failing to bargain the changes to the shift briefing pay policy. On September 22, 2008 NEPBA Local 250/NH Correction Officers moved to intervene. The motion to intervene was granted on October 8, 2008. See PELRB Decision No. 2008-205.

The State filed its answer on August 8, 2008 denying the charges and claiming that the State acted within its management rights in making the disputed changes.

On February 17, 2009 the Complainants' assented to motion to stay proceedings was granted. See PELRB Decision No. 2009-032. While the proceedings in this matter were stayed, the PELRB issued a decision in consolidated cases Nos. S-0438-1 and S-0437-1. Pursuant to that decision, the PELRB orders certifying the NEPBA Local 255 and Local 250 as exclusive representatives for the NH Supervisory Correction Officers and NH Correction Officers respectively were vacated and the affected employees were ordered to revert back to the representation that was in place prior to the NEPBA's modification/certification petitions, i.e., to the representation by the State Employees' Association of New Hampshire, SEIU Local 1984 (SEA). See PELRB Decision No. 2009-102 (May 27, 2009).

On June 8, 2009 the SEA, as an exclusive representative of NH Supervisory Corrections Officers and NH Corrections Officers, filed a timely motion to reactivate this case which was granted on June 29, 2009. See PELRB Decision No. 2009-130.

The representatives of the SEA and the State appeared at the pre-hearing conference on July 10, 2009 at the PELRB offices in Concord. At the conference, the counsel for the State argued that the issues in this case are the same as the issues in the Case No. G-0108-2 filed by the SEA against the State on July 7, 2009 and that two cases should be consolidated. The counsel for the SEA countered that two cases are "stand alone" cases involving the issues that are not identical and that the cases should be heard separately. The counsel for the SEA also suggested that the present matter be submitted on stipulated facts and briefs, to which the counsel for the State objected. In addition, the counsel for the SEA stated that he intends to file a motion to

amend a caption to reflect the current representation. The counsel for the State indicated that he would assent to the motion to amend the caption.

DECISION

1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.
2. The complainant shall file a motion to amend the caption no later than July 17, 2009.
3. The adjudicatory hearing currently scheduled for July 28, 2009 is hereby cancelled.
4. The consolidated pre-hearing conference for the present case and case No. G-0108-2 is scheduled for **July 28, 2009**. A scheduling notice will be issued. The parties shall be prepared to discuss the issue of consolidation of two cases.
5. The parties may file memoranda to address the issue of consolidation of cases Nos. S-0438-3 and G-0108-2. The memoranda shall be filed no later than **July 27, 2008**.

So ordered.

July 10, 2009


Karina A. Mozgovaya, Esq.
Staff Counsel/Hearing Officer

Distribution:

Glenn R. Milner, Esq.
Michael K. Brown, Esq.
John C. Vinson, Esq.