



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**NEW HAMPSHIRE TROOPERS ASSOCIATION/
TROOPER KAREN THERRIEN**

COMPLAINANT

v.

CASE NO. G-0097-7

**NEW HAMPSHIRE DEPARTMENT OF SAFETY,
DIVISION OF STATE POLICE**

DECISION NO. 2010-053

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: March 16, 2010

Appearances: Complainant - John S. Krupski, Esq.
Respondent - Marta Modigliani, Esq.

Background:

New Hampshire Troopers Association (Union) filed an unfair labor practice complaint against New Hampshire Department of Safety, Division of State Police (State) on February 2, 2010. The Union claims that the State violated RSA 273-A:5, I (h) and (e) when it required Trooper Therrien to work on September 17, 2009, the last day of her employment, after granting her request for annual leave for that day and when it failed to compensate her at time and a half the regular rate as required under the parties' collective bargaining agreement (CBA) and to provide mileage reimbursement for driving her own vehicle to work on September 17. The Union requests that the PELRB find that the State has committed an unfair labor practice, order

the State of cease and desist from further violations, and order the State to provide Trooper Therrien with all compensation that was not paid.

On February 17, 2010 the State filed an answer to the complaint denying the charges. The State that it has a longstanding practice of requiring employees to be physically present and working on the last day of employment; that because Trooper Therrien returned her state issued equipment, including her cruiser and firearms, on September 11, 2009, thereby making herself unavailable to work as the sworn employee, her last day of duty was determined to be September 11, 2009, not September 17, and the State permitted Trooper Therrien to withdraw her annual leave for September 17, 2009 and to work at headquarters during her regular duty hours to accommodate her request to have her retirement be effective after September 15, 2009 so that she could receive service credit for the month of September. The State also asserts that Trooper Therrien cannot avail herself of the contractual grievance procedure as she is no longer an “employee” as defined in RSA 273-A:1, IX. The State requests that the PELRB declare that the State did not commit an unfair labor practice.

On March 16, 2010 the parties’ representatives attended a pre-hearing conference at the PELRB offices in Concord. During the pre-hearing conference, it became apparent that the parties agree on more facts than they set forth in their Joint Pre-Hearing Worksheet. The parties have agreed to work together to prepare a comprehensive statement of stipulated facts that would reduce the number of witnesses to be called to testify at the adjudicatory hearing.

DECISION

1. “Parties” means the named complainant and respondent or the counsel/representative appearing in the case.

2. Based upon the pre-hearing conference discussions, the parties agree on more facts than they set forth in the Agreed Statement of Uncontested Facts section of their Joint Pre-Hearing Worksheet. Prior to April 22, 2010 the parties shall work together to prepare a comprehensive statement of stipulated facts that would reduce the number of witnesses to be called to testify at the adjudicatory hearing.

3. The parties shall file a comprehensive statement of stipulated facts no later than **April 22, 2010**.

5. The parties shall amend, exchange, and file their Witness and Exhibit lists no later than **April 22, 2010**.


6. The parties shall pre-mark any exhibits prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.03.

HEARINGS

Unless otherwise ordered as a result of the filing of a motion to continue or other motion, the adjudicatory hearing between the parties will be held on **May 4, 2010 at 9:00 AM** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 6 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.

March 16, 2010


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

Distribution:
Marta Modigliani, Esq.
John S. Krupski, Esq.