



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Manchester Professional Fire Fighters Association, IAFF Local 856

v.

City of Manchester Fire Department

Case No. G-0070-6

Decision No. 2010-136

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: July 29, 2010

Appearances: Richard E. Molan, Esq., Manchester Professional Fire Fighters Association, IAFF Local 856

Thomas I. Arnold, III, Esq., City of Manchester

Background:

The Association filed an unfair labor practice complaint against the City on June 28, 2010. The Association claims that the City committed an unfair labor practice in violation of RSA 273-A:5, I (e), (g), and (h) when it refused to arbitrate the grievance alleging that the City charged its employees more days of sick leave than shifts absent contrary to the City's Code of Ordinances.

The City denies that it committed an unfair labor practice claiming that the disputed issue was not subject to a grievance or arbitration pursuant to the parties' Collective Bargaining

Agreement. The City also argues that the PELRB has no jurisdiction over the complaint as the Association has alleged only that the City has failed to follow a City Ordinance.

During the pre-hearing conference, the parties agreed that there are no facts in dispute and this case can be submitted on stipulated facts, briefs and oral arguments.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction to determine the arbitrability of the issue grieved by the Association.
2. Whether the City committed an unfair labor practice in violation of RSA 273-A:5, I (e), (g), and (h) when it refused to participate in the arbitration proceeding requested by the Association.

DECISION

1. "Parties" means the Association, the City, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The adjudicatory hearing currently scheduled for August 31, 2010 is hereby cancelled.
3. The City shall file a motion to dismiss, if any, on or before **August 6, 2010**. The Association shall file an objection to the motion to dismiss on or before **August 23, 2010**.
4. The parties shall prepare and file a final statement of stipulated facts on or before **September 3, 2010**.
5. The parties shall file opening briefs and any joint exhibits on or before **September 3, 2010**.
6. The parties shall file reply briefs, if any, on or before **September 13, 2010**.

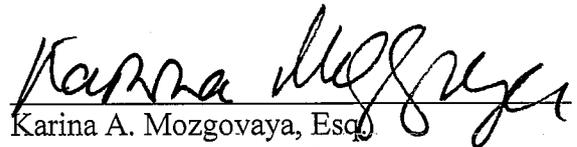
7. The parties shall present their arguments before the Board or its representative on **September 14, 2010** beginning at **9:00 a.m.**

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the parties will present their arguments at **9:00 a.m.** on **September 14, 2010** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 1 hour.

So ordered.

July 29, 2010


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

Distribution:
Richard E. Molan, Esq.
Thomas I. Arnold, III, Esq.