



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

April Tellier et al.

and

United Electrical, Radio and Machine Workers of America

and

Grafton County Nursing Home

Case No. G-0166-1

Decision No. 2011-107

ORDER

On March 21, 2011 certain employees of the Grafton County Nursing Home filed a decertification petition seeking a secret ballot election to determine whether the United Electrical, Radio and Machine Workers of America (Union) will continue as the certified exclusive representative of a bargaining unit consisting of certain employees of the Grafton County Nursing Home. (See PELRB Decision No. 2001-005M.) The Union objected to the petition and moved to dismiss on the ground that, among other things, the petition is untimely under RSA 273-A:11, I (b) and Pub 301:01.

RSA 273-A:11, I provides:

Public employers shall extend the following rights to the exclusive representative of a bargaining unit certified under RSA 273-A:8 ...

(b) The right to represent the bargaining unit exclusively and without challenge during the term of the collective bargaining agreement. Notwithstanding the foregoing, an election may be held not more than 180 nor less than 120 days prior to the budget submission date in the year such collective bargaining agreement shall expire.

The PELRB administrative rule Pub 301.03 governing decertification proceedings provides in

relevant part that a “petition for decertification alleging that the members of a bargaining unit no longer wish to be represented by the employee organization presently representing them shall ... be treated in the same fashion as a petition filed under Pub 301.01.” Pub 301.03 (a). Under Pub 301.01 (a), a representation election petition involving a bargaining unit, for which a collective bargaining agreement constituting a bar to election under RSA 273-A:11, I (b) presently exists, “shall be filed no more than 240 days and no less than 180 days prior to the budget submission date of the affected public employer in the year that agreement expires ...”


In this case, it is undisputed that the Union and the public employer are parties to a collective bargaining agreement which expires on June 30, 2013. See Petition for Decertification and Objections to the Petition for Decertification. This agreement constitutes a bar to election under RSA 273-A:11, I (b). Based on the County’s June 1 budget submission date, a petition for decertification should be filed no more than 240 days and no less than 180 days prior to the June 1, 2013 budget submission date. Therefore, this petition was filed prematurely. The petitioners’ allegations concerning some employees’ disappointment with the exclusive representative neither negate the protections provided the exclusive representative under RSA 273-A:11, I (b) nor excuse the petitioners from having to follow the requirements set forth in RSA 273-A:11, I (b) and Pub 301.01 (a).

For the foregoing reasons, the petition for decertification is dismissed. Since the petition is dismissed pursuant to RSA 273-A:11, I (b) and Pub 301.01 (a), it is unnecessary to address the other objections raised by the Union.

So ordered.

April 12, 2011

Distribution:
April Tellier
Tara Emerson
Julie Clough, Executive Director
Rachel Clough, Field Organizer


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