



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME, Council 93, Local 1801, Nashua Housing Authority Employees

v.

Nashua Housing Authority

Case No. G-0050-5
Decision No. 2011-119

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: April 22, 2011¹

Appearances: Karen E. Clemens, Esq. for the AFSCME, Council 93, Local 1801,
Nashua Housing Authority Employees

J. Daniel Marr, Esq. for the Nashua Housing Authority

Background:

The Union filed an unfair labor practice complaint on March 15, 2011 claiming that the Nashua Housing Authority (NHA) committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (e), (g), and (h) when it refused to proceed with grievance arbitration. The underlying grievance concerns the NHA's failure to properly compensate employees for snowplowing and related work. The Union requests that the PELRB find that the NHA violated RSA 273-A, I (a), (b), (e), (g), and (h) and order the NHA to proceed with the grievance arbitration, to cease and desist from interfering with its employees' exercise of the rights conferred by RSA 273-A, to bargain in good faith, to post the findings of the PELRB for 30 business days, and to make the Union whole for any costs and expenses incurred to pursue

¹ The parties filed a Joint Pre-Hearing Worksheet on April 21, 2011.

this complaint.

The NHA denies the charges and asserts, among other things, that the grievance concerning pay rate for snowplowing is non-arbitrable as it does not involve the interpretation or application of a specific provision of the parties' collective bargaining agreement (CBA). The NHA requests that the PELRB dismiss the complaint. The NHA filed a motion to dismiss on the ground that the Union failed to state a claim upon which relief can be granted.

ISSUE FOR DETERMINATION BY THE BOARD

Whether the NHA committed an unfair labor practice in violation of RSA 273-A, I (a), (b), (e), (g), and (h) when it refused to arbitrate the snowplowing compensation grievance.

WITNESSES and EXHIBITS:

As outlined in the parties Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their List of Witnesses and Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

DECISION

1. "Parties" means the Union, the NHA, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. During the pre-hearing conference the parties agreed that, under the parties' CBA, they are required to utilize the PELRB's procedure for appointment of a neutral to resolve a grievance if such grievance involves an arbitrable issue.

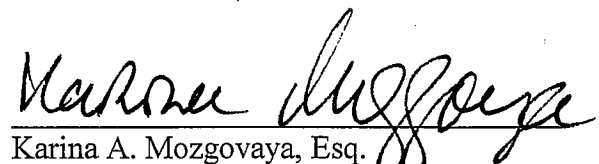
3. As discussed at the pre-hearing conference, the Union shall file an objection to the motion to dismiss and an amendment to the complaint, if any, no later than April 27, 2011.
4. The parties shall exchange and file their final witness and exhibit lists no later than 10 days prior to the date of hearing.
5. The parties shall prepare and file a final statement of stipulated facts no later than 10 days prior to the date of hearing.
6. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the adjudicatory hearing between the parties will be held on **June 8, 2011 at 9 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours.

So ordered.

April 22, 2011


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

Distribution:
Karen E. Clemens, Esq.
J. Daniel Marr, Esq.
Steven Lyons, Staff Rep. AFSCME
Lynn Censabella, Executive Director