



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New England Police Benevolent Association, Local 250

v.

State of New Hampshire, Department of Corrections

Case No. G-0109-6
Decision No. 2011-289

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: November 21, 2011¹
Appearances: Kevin E. Buck, Esq. for the Complainant
Rosemary Wiant, Esq. for the Respondent

Background:

The Union filed an unfair labor practice complaint on October 17, 2011 claiming that the State violated RSA 273-A:5, I (a), (b), and (h) when it refused to participate in an arbitration session on April 19, 2011 scheduled to address several grievances pursuant to the parties' CBA. The Union requests that the PELRB find the State in violation of RSA 273-A:5, I, (b), and (h) and order the State to participate in the arbitration procedure set forth in the parties' CBA and to pay costs, including attorney's fees, incurred by the Union. The State denies the charges and asserts that one of the grievances scheduled for the April 19, 2011 arbitration session was non-arbitrable because it was untimely.

¹ The parties filed a Joint Pre-Hearing Worksheet on November 14, 2011.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the State violated RSA 273-A:5, I (a), (b), and (h) when it refused to participate in the arbitration procedure set forth in the parties' CBA.

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 State, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. At the pre-hearing conference the State withdrew its motion for a more definite statement filed on November 15, 2011. The Union agreed to provide to the State the information concerning the subject grievances.
3. The State requested a continuance of the adjudicatory hearing to allow parties time to resolve some of the contractual disputes involved in this matter, thereby narrowing the issues for the hearing. The Union assented to this motion. Accordingly, the adjudicatory hearing currently scheduled for December 6, 2011 is rescheduled for January 31, 2012 at 9:00 a.m. A rescheduling notice shall issue forthwith.


4. The parties shall file their final witness and exhibit lists and a comprehensive statement of stipulated facts no later than January 23, 2012.
5. 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 **January 31, 2012 at 9 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours.

So ordered.

November 22, 2011


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

Distribution:
Kevin E. Buck, Esq.
Rosemary Wiant, Esq.