



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Pittsfield Town Employees, AFT Local #6214, AFT-NH, AFL-CIO

v.

Town of Pittsfield, Board of Selectmen

Case No. G-0060-9
Decision No. 2012-215

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: September 20, 2012

Appearances: Terri D. Donovan, Esq., for the Complainant
Paul T. Fitzgerald, Esq., for the Respondent

Background:

The Union filed this unfair labor practice complaint on August 20, 2012. According to the Union, when the Town demanded a doctor's certificate from certain bargaining unit employees who had been on sick leave for less than five days the Town violated RSA 273-A:5, I (e)(to refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon in negotiations); (g)(to fail to comply with this chapter or any rule adopted under this chapter); (h)(to breach a collective bargaining agreement); and (i)(to make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement entered into by the public employer making or adopting such law, regulation or rule.) The Union charges that the Town's action is contrary to the parties' January 1, 2011 to

December 31, 2013 collective bargaining agreement (2011-13 CBA), is bad faith bargaining in refusing to bargain over a mandatory subject of bargaining, represents a policy that invalidates a portion of the 2011-13 CBA, and is a failure to comply with the provisions of RSA 273-A.

The Town denies the charge. According to the Town under the relevant contract language the Town is entitled to demand a doctor's certificate from an absent employee at any time, and therefore the Town's request for a doctor's certificate from two employees who had been out on sick leave for less than five days did not violate the contract and the Town has not committed an unfair labor practice. The Town requests dismissal of the complaint.

ISSUE FOR DETERMINATION BY THE BOARD

As established at the pre-hearing conference, the issue for decision in this case is whether the Town violated RSA 273-A:5, I (e), (g), (h) and/or (i) when it demanded a doctor's certificate from certain bargaining unit employees who had been on sick leave for less than five days.

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 but electronic filing of exhibits in advance of hearing is not required. 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

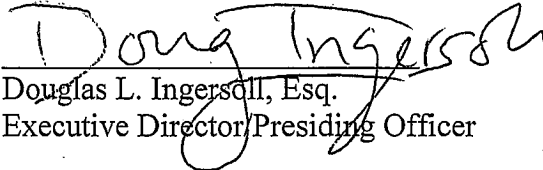
1. "Parties" means the Union, the Town, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits when possible. The electronic filing of exhibits in advance of hearing is not required in this case.
3. During the pre-hearing conference the undersigned reviewed with the parties the procedural items referenced in the Joint Pre-Hearing Worksheet. Issue 3-A was discussed and reviewed to the satisfaction of both parties and no further order is required at this time. As to issue 3-B, the Town agreed to provide the email requested by the Union per the Union's September 11, 2012 right to know request on or before the close of business on September 21, 2012.
4. Final witness and exhibit lists shall be filed on or before October 3, 2012.

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 **October 4, 2012 at 9:00 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours.

Date: September 24, 2012

Distribution: Terri D. Donovan, Esq.
Paul Fitzgerald, Esq.


Douglas L. Ingersoll, Esq.
Executive Director/Presiding Officer

