



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Concord Fire Fighters Association, IAFF Local 1045

v.

City of Concord

Case No. G-0164-3
Decision No. 2013-010

Order on Motion to Strike

The Union filed a motion to strike the two exhibits the City attached to its December 11, 2012 Motion for Rehearing of PELRB Decision No. 2012-252. The Union argues the City is improperly attempting to add information to the record upon which PELRB Decision No. 2012-252 was based. The City has objected to the Union's motion and contends that the exhibits were properly filed in support of the City's motion for rehearing

The board conducted a hearing on the Union's unfair labor practice charge on August 15, 2012, at which time testimony and exhibits offered by both parties was accepted into the record. The parties requested and were provided with the opportunity to file post-hearing briefs, but neither party requested that the record be held open to allow for the submission of additional evidence per Pub 203.06. Thereafter, both parties submitted briefs, and the board issued its decision on the merits (Decision No. 2012-252) based upon the record established at hearing and after consideration of the arguments of the parties reflected in their briefs. Since the decision on the merits already issued, it is too late to reopen the record under Pub 203.07 for the purpose

of accepting the exhibits attached to the City's motion for rehearing. Further, *New England Tel. & Tel. Co. v State*, 113 N.H. 92 (1972), cited by the City in its objection to the motion to strike, does not mean the City should be allowed to add exhibits at this stage in these proceedings.

The Union's motion to strike is granted. The exhibits attached to the City's motion for rehearing will not be considered but they will be retained as part of the case file.

So ordered.

January 14, 2013.

/s/ Charles S. Temple
Charles S. Temple, Esq., Chair

By unanimous vote of Chair Charles S. Temple, Board Member Kevin E. Cash and Board Member Carol M. Granfield.

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