



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**State Employees' Association of New Hampshire, Inc.,
SEIU Local 1984**

v.

State of New Hampshire

**Case No. G-0115-4
Decision No. 2013-013**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 14, 2013

Appearances: Robert F. Berry, Jr., Esq. for the Complainant
Rosemary Wiant, Esq. for the Respondent

Background:

On December 12, 2012 the Association filed an unfair labor practice complaint claiming that the State violated RSA 273-A:5, I (e) when it issued memoranda changing the shift differential payment practices and refused to bargain these changes with the Association. The Association requests that the PELRB order the State to cease and desist from its refusal to bargain the changes and order the State to return payment of shift differentials to the status quo ante.

The State denies the charge and asserts that it was not obligated to bargain with the Association because the State's memoranda did not alter the shift differential payment practices but, instead, ensured compliance with the parties' collective bargaining agreement (CBA) and

state and federal laws. The State moved to dismiss the complaint on the ground that the PELRB lacks jurisdiction over this case because the Association filed a grievance under the CBA addressing issues that are substantively identical to the issues in its unfair labor practice complaint.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over this case.
2. If the PELRB has jurisdiction over this case, whether the State violated RSA 273-A:5, I (e) as charged by the Association.

WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists 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 and exhibits appearing on their respective lists will be available at the hearing.

DECISION

1. "Parties" means the Association, 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. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **January 18, 2013**.
3. 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, the adjudicatory hearing in this case will be held on **January 28, 2013 at 9:00 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 hours.

So ordered.

January 14, 2013


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

Distribution:

Richard E. Molan, Esq.

Rosemary Wiant, Esq.

Robert F. Berry, Jr., Esq.