



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Professional Fire Fighters of Goffstown, IAFF Local 3420

v.

Town of Goffstown

Case No. G-0186-2

Decision No. 2013-043

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: March 25, 2013

Appearances: John S. Krupski, Esq. for the Complainant

Paul T. Fitzgerald, Esq. for the Respondent

Background:

On February 25, 2013 the Union filed an unfair labor practice complaint claiming that the Town violated RSA 273-A:5, I (a), (b), (e), (f), (g), and (i) when it refused to pay certain employees contractual hourly wage rate upon completion of their probation.¹ The Union requests, among other things, that the PELRB order the Town to compensate affected bargaining unit employees and enjoin the Town from any further violations.

The Town denies the charges and asserts that, under the "status quo" doctrine, past practice, and other applicable law, subject employees are not entitled to pay beyond their current

¹ The Union asserted the same claims in its December 30, 2011 complaint in Case No. G-0186-1. The case was submitted for decision on stipulated facts and briefs. The PELRB dismissed the complaint "without prejudice to the Union's right to maintain an unfair labor practice charge, if necessary," by filing a complaint within six months of the completion of the contractual grievance procedure. See PELRB Decision No. 2012-128 (June 7, 2012).

pay status. The Town requests that the PELRB dismiss this case or find that the Town has not committed an unfair labor practice and deny all relief sought by the Union.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town violated RSA 273-A:5, I (a), (b), (e), (f), (g), and (i) as charged by the Union.

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 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. At the pre-hearing conference, the Union requested that the PELRB take official notice of the PELRB file in Case No. G-0186-1. The Town did not object to the request. The Union's request is granted. See Pub 203.03 (d).
3. At the pre-hearing conference, the Union withdrew its "bad faith" and "unworkable grievance procedure" claims; and the Town withdrew its objection based on identity of affected parties. See Joint Pre-Hearing Worksheet, Summary of Issues for Hearing (March 22, 2013).

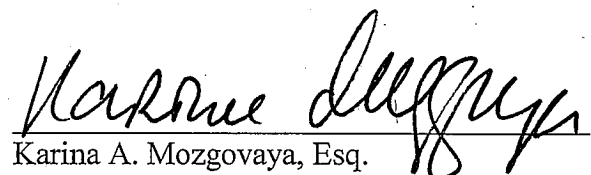
4. A request, if any, to submit this case on stipulated facts, exhibits, and briefs shall be filed on or before **April 1, 2013**. Such request shall contain a proposed schedule of submission of stipulated facts and briefs.
5. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **April 2, 2013**.
6. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. 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 **April 11, 2013 at 1:00 p.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 hours.

So ordered.

March 25, 2013


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

Distribution:
John S. Krupski, Esq.
Paul T. Fitzgerald, Esq.