



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**Teamsters Local 633 of New Hampshire**

v.

**Rockingham County Department of Corrections**

**Case No. G-0140-4**

**Decision No. 2013-210**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 16, 2013

Appearances: Jeffrey Padellaro, Business Agent, for the Complainant

Elizabeth A. Bailey, Esq., for the Respondent

On September 18, 2013 the Teamsters Local 633 of New Hampshire (Union) filed an unfair labor practice complaint alleging that the Rockingham County Department of Corrections (County) violated RSA 273-A:5, I (b), (c), (d), (g), (h), and (i) when the County, among other things, (1) failed to timely process Union's grievances; (2) unilaterally changed terms and conditions of employment, including holiday pay and time record keeping process; (3) retaliated against the Union President by imposing excessive discipline and skipping disciplinary process steps; and (4) breached its duty to bargain in good faith by failing to make itself sufficiently available for contract negotiations and to provide a written bargaining proposal and by bargaining regressively. The Union requests that the PELRB order the Town to cease and desist from its actions, to rescind unilateral changes, and to bargain in good faith.

The Town denies the charges and asserts, among other things, that the complaint does not satisfy the requirements set forth in Pub 201.02 (b) (4); that the issue involving holiday pay is moot because the County made a mistake as to how holiday pay should be calculated and has already remedied its mistake; that the processes for keeping track of work time and scheduling of

work are within the County's management rights; that the County and the Union met for negotiations in May, June, and September of 2013; and that the County is not obligated to submit written proposals and has a right to bargain about all aspects of the expired CBA. The County also asserts, among other things, the following "affirmative defenses": (1) failure to state a claim upon which relief may be granted, (2) estoppel, (3) waiver, (4) laches, (5) unclean hands, (6) failure to exhaust all administrative remedies, and (7) failure to adhere to contractual grievance procedure. The County requests that the PELRB dismiss the complaint, deny all forms of relief sought by the Union, and award the County its reasonable attorney's fees and costs associated with the Union's complaint.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the County violated RSA 273-A:5, I (b), (c), (d), (g), (h), and (i) as charged by the Union.

#### DECISION

1. "Parties" means the Union, the County, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. On September 24, 2013 the County filed a Motion to Dismiss or in the Alternative Motion for Further Clarification on the grounds that the allegations contained in paragraphs 1 and 3 of the Union's complaint do not comport with the pleading requirements set forth in Pub 201.02 and do not place the County on notice of the alleged facts at issue to allow the County to fully defend itself. The County's motion was discussed during the pre-hearing conference. The Union indicated its intent to amend the complaint to clarify its allegations regarding grievances (paragraph 1 of the complaint) and retaliation against the Union's officials (paragraph 3 of the complaint). Accordingly, the County's request to dismiss is denied; and its request for clarification is granted. See

Pub 201.02 (b) and (h). As discussed at the pre-hearing conference, the Union shall file an amendment providing specifications/clarification regarding its allegations in paragraphs 1 and 3 of the complaint no later than **November 15, 2013**. The County shall file its answer to the amended complaint, if any, no later than **December 2, 2013**.

3. At the pre-hearing conference, the parties moved to continue the adjudicatory hearing. The parties' request is granted. Accordingly, the adjudicatory hearing currently scheduled for November 5, 2013 is cancelled. As discussed at the pre-hearing conference, the parties shall file with the PELRB at least 2 alternative hearing dates that are acceptable to the parties on or before **December 2, 2013**. See Pub 201.08 (a) (5). The parties shall inform the PELRB of any resolution of this matter in the interim.
4. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than ten days prior to the date of hearing.
5. 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. 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.

So ordered.

October 17, 2013

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

Distribution:

Jeffrey Padellaro, Business Agent  
Elizabeth A. Bailey, Esq.