



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**Pittsfield Town Employees, AFT Local #6214,
NHFT, AFL-CIO**

v.

Town of Pittsfield

**Case No. G-0060-12
Decision No. 2015-036**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: March 2, 2015

Appearances: Terri D. Donovan, Esq., for the Complainant

Beth A. Deragon, Esq., for the Respondent

Background:

On January 5, 2015, the Pittsfield Town Employees, AFT Local #6214, NHFT, AFL-CIO (Union) filed an unfair labor practice complaint alleging that the Town of Pittsfield (Town) violated RSA 273-A:5, I (e), (g), (h), and (i) when it terminated the employment of a bargaining unit employee without cause after contracting out the services of the Wastewater Treatment Plant (WWTP) to a private company. The Union alleges, among other things, that the Town breached its contractual obligation to assure that any employee of the WWTP "will be an employee of the contracted company for a minimum of two years." The Union requests, among other things, that the PELRB order the Town to make the affected employee whole for any losses resulting from the termination of employment; to reinstate the employee to his former position or a comparable

position with all pay and benefits provided to him through the parties' collective bargaining agreement (CBA); and to negotiate the terms and conditions of an alternative position.

The Town denies the charges and asserts that, the subject employee was not terminated for cause or disciplined but, rather, his employment ended because his position was eliminated as a result of contracting out the WWTP services; and that because of an incident between the only two employees of the WWTP, which resulted in incapacitation/hospitalization of the subject employee and a resignation of the other employee, the Town was unexpectedly forced to find an outside contractor to operate the WWTP in compliance with the State regulations; and the contractor refused to hire the subject employee. The Town also claims that it offered the subject employee an alternative position and the employee refused this offer of employment and asked for a settlement instead. The Town requests that the PELRB dismiss the complaint.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town violated RSA 273-A:5, I (e), (g), (h), and/or (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 Pub 203.01. 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 parties jointly requested a continuance of the adjudicatory hearing currently scheduled for March 17, 2015 to allow the parties additional time to resolve the dispute. The parties jointly proposed several alternative hearing dates, including April 22, 2015. The parties' request is granted. Accordingly, the adjudicatory hearing is rescheduled for **April 22, 2015, at 8:30 a.m.** A rescheduling notice shall issue forthwith.
3. The Union filed a motion seeking to compel the Town to produce the internal investigation report, prepared by Attorney Guida, concerning the incident between the subject employee and the other employee of the WWTP. The Town objected to this motion. During the pre-hearing conference, the parties presented their arguments on the motion. This motion will be addressed in a subsequent order.
4. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **April 13, 2014.**
5. 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.
6. 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 22, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 6 hours. If either party believes that

additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

March 4, 2015


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

Distribution: Terri D. Donovan, Esq.
Beth A. Deragon, Esq.