



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

**New Hampshire Trooper Association**

**v.**

**State of New Hampshire, Department of Safety,  
Division of State Police**

**Case No. G-0097-13  
Decision No. 2015-050**

**PRE-HEARING MEMORANDUM AND ORDER**

**Date of Conference:** April 2, 2015

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

Marta Modigliani, Esq., for the Respondent

**Background:**

On February 17, 2015, the New Hampshire Trooper Association (Union) filed an unfair labor practice complaint alleging that the State of New Hampshire, Department of Safety, Division of State Police (Division) violated RSA 273-A:5, I (a), (g), (h), and (i) when it denied a bargaining unit employee access to extra-duty work detail for a period of thirty days due to alleged violations of professional standards of conduct set forth in a Division policy concerning work detail. The Union alleges, among other things, that the Division applied the policy disparately, arbitrarily, and in violation of an established past practice; and that, as a result of the Division's action, the subject employee suffered significant loss of wages. The Union also disputes the allegations of detail policy violations which served as basis for the Division's action.

The Union requests, among other things, that the PELRB order the Division to cease and desist from any further violations and make the subject employee whole.

The Division denies the charges and asserts that it acted in accordance with the detail policy incorporated into the parties' collective bargaining agreement. The Division claims that the subject employee violated professional standards of conduct set forth in the "Division policy dedicated to Extra Duty Details, Chapter 22-E" and was suspended from detail eligibility based on the following provision of this policy: "If at any time the Director, or his designee, determines that the employee is not following the [Professional Standards of Conduct] ... the employee may lose the privilege of working Extra Duty Details." The Division also claims that the Union failed to state a claim upon which relief may be granted because it failed to provide a clear and concise statement of facts giving rise to the complaint, as required under Pub 201.02 (b)(4); and that the Union's wage-loss allegation is based on speculation. The Division requests that the PELRB dismiss the complaint and declare that the Division did not commit an unfair labor practice.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the Division violated RSA 273-A:5, I (a), (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 Division 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 a joint statement of stipulated facts and their final witness and exhibit lists no later than **April 13, 2015**.
3. 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.
4. 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 21, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 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.

April 2, 2015.



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

Distribution: John S. Krupski, Esq.  
Marta Modigliani, Esq.