



**STATE OF NEW HAMPSHIRE**  
Public Employee Labor Relations Board

**AFSCME Local 3657, Weare Police Employees**

**v.**

**Town of Weare**

**Case No. G-0092-16**  
**Decision No. 2015-164**

**Pre-Hearing Memorandum and Order**

Date of Conference: July 15, 2015

Appearances: Toni Soltani, Esq., for the Complainant  
Mark T. Broth, Esq., for the Respondent

**Background:**

On June 15, 2015, the AFSCME Local 3657, Weare Police Employees (Union) filed an unfair labor practice complaint alleging that the Town of Weare violated RSA 273-A:5, I (a), (e), (h), and (i) when, among other things, it failed to implement a binding arbitration award ordering the Town to make a bargaining unit employee/grievant whole by offering him reinstatement to his position with back pay and benefits and when it refused to provide the Union with documentation needed to calculate the amount owed to the grievant and to negotiate with the Union in good faith. The Union also asserts that the Town unilaterally reduced the grievant's working hours from full time to part time and changed his work schedule; and that the Town retaliated against the grievant for asserting his rights under the collective bargaining agreement. The Union requests, among other things, that the PELRB order the Town to abide by the

arbitrator's decision and make the grievant whole by providing him with back wages, benefits, and any other income owed and by returning the grievant to "his regularly worked schedule of 32 hours per week," to post the PELRB findings for 30 business days, and to make the Union whole for any and all costs and expenses incurred to pursue the prohibited practice charge, including reasonable attorney's fees.

The Town denies the charges. Although the Town admits that issues regarding the subject employee's back wages and reinstatement remain unresolved and that the Town owes the employee an "undetermined amount of back wages," it argues that the proper forum to resolve the current dispute is through the grievance procedure and that "the PELRB should defer any action on this matter pending exhaustion of the collectively bargained dispute resolution process."

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town violated RSA 273-A:5, I (a), (e), (h), and/or (i) as charged by the Union.

#### 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. The parties failed to submit a Joint Pre-Hearing Worksheet, as required under Pub 202.01 (b), which was due on July 13, 2015. See PELRB Notice of Filing – Unfair Labor Practice Complaint (June 16, 2015). As discussed at the pre-hearing conference, the parties shall file a Joint Pre-Hearing Worksheet no later than **July 20, 2015**. The Joint Pre-Hearing Worksheet shall contain, among other things, a joint statement of stipulated facts and final witness and exhibit lists. See Pub 202.01 (c) and Pub 203.01 (a). 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.

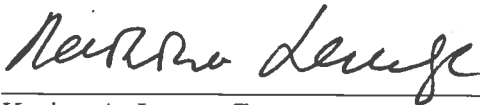
3. The Town filed a Motion to Stay on July 10, 2015 and a Motion to Continue on July 14, 2015. The Union did not assent to either of these motions. Given the date of the adjudicatory hearing, the Union shall file objections to these motions, if any, no later than **July 21, 2015**. See Pub 203.04 (d).
4. 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 **July 28, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 5 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.

July 15, 2015

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

Distribution: Toni Soltani, Esq.  
Mark T. Broth, Esq.