



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

AFSCME Council 93

v.

Carroll County Nursing Home

Case No. G-0125-10
Decision No. 2016-017

Pre-Hearing Memorandum and Order

Date of Conference: February 8, 2016

Appearances: Jaclyn McNeely, Esq., for the Complainant

Thomas M. Closson, Esq., for the Respondent

Background:

On January 8, 2016, the AFSCME Council 93 (Union) filed an unfair labor practice complaint alleging that the Carroll County Nursing Home (County) violated RSA 273-A:5, I (a), (b), (c), and (d) when it took several actions against the Union's Chapter Chair, including issuing a written warning and withholding her holiday pay, in retaliation for her union activity. The Union requests that the PELRB find that the County committed an unfair labor practice and order the County to cease and desist from violating RSA 273-A, to bargain in good faith, to publicly post the findings of the PELRB for 30 days, and to make the Union whole for all costs and expenses incurred to pursue this charge.

The County denies the charges and asserts that the PELRB lacks jurisdiction over some of the Union's claims because the Union is currently pursuing, or is required to pursue, these claims through the contractual grievance procedure. The County also asserts that some of

Union's claims have been resolved and are, therefore, moot and that some of the Union's claims are time-barred.¹ The County also argues that there is no basis in the Union's complaint for the alleged violation of RSA 273-A:5, I (d).

Issues for Determination by the Board

1. Whether the PELRB has jurisdiction over the Union's claims.
2. Whether the County violated RSA 273-A:5, I (a), (b), (c), and/or (d) 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 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. As discussed at the pre-hearing conference, if the Union wishes to add new claims to its complaint, it shall file an amended complaint no later than **February 12, 2016**. See Pub 201.04. An answer to the amended complaint and/or a motion to dismiss, if any, shall be filed no later than **February 19, 2016**.
3. At the pre-hearing, the County moved to continue the adjudicatory hearing currently scheduled for February 18, 2016. The Union assented to this motion. The County's

¹ The allegedly time-barred claims are mentioned in the parties' Joint Pre-Hearing Worksheet, and not in the Union's complaint.

motion is granted. The adjudicatory hearing is rescheduled for **March 8, 2016, at 8:30 a.m.** A rescheduling order shall issue forthwith.

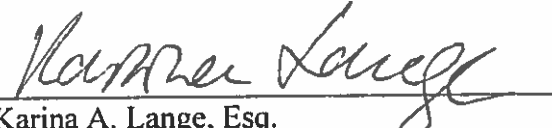
4. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **February 29, 2016.**
5. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. 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 **March 8, 2016, 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.

Date: 2/8/16


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

Distribution: Jaclyn McNeely, Esq.
Thomas M. Closson, Esq.