



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

**National Correctional Employees Union**

**v.**

**Rockingham County Department of Corrections**

**Case No. G-0140-8**  
**Decision No. 2017-125**

**Pre-Hearing Memorandum and Order**

**Date of Conference:** June 13, 2017

**Appearances:** Paul Brunetti, Esq., for the Complainant

Elizabeth A. Bailey, Esq., for the Respondent

**Background:**

On June 9, 2017, the National Correctional Employees Union (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Rockingham County Department of Corrections (County) has violated RSA 273-A:5, I (a), (b), (e), (g), (h), and (i) when it implemented a "new modified 5-2/4-2 work schedule," a change which the Union charges was made unilaterally, without negotiation, and contrary to Article 20 of the parties' collective bargaining agreement (CBA). The Union also filed a motion requesting an immediate cease and desist order under RSA 273-A:6, III and N.H. Admin. Rules, Pub 304.02. In its motion, the Union asked the PELRB to order the County to: (1) cease and desist from implementing the new schedule; (2) cease and desist from unilaterally changing the conditions of employment; (3) cease and desist from violating the collective bargaining agreement; and (4) make all bargaining unit members whole.

The County denies the charges and claims, among other things, that: (1) it did not violate the CBA or change scheduled shifts; (2) it has properly exercised its management rights to change and implement a "days off rotation"; (3) the new "days off rotation" is more favorable to employees than the prior version; (4) the Union failed to state a claim upon which relief may be granted; (5) the Union failed to exhaust all administrative remedies; and (6) the Union's claims are barred by the doctrines of estoppel, waiver, laches, and unclean hands. The County also objected to the Union's motion for interim relief. The County requests that the PELRB dismiss the complaint, deny the Union all forms of relief it seeks, and award the County its reasonable attorney's fees and costs associated with the Union's complaint.

On July 6, 2017, the PELRB granted the Union's motion for a cease and desist order. See PELRB Decision No. 2017-106. The PELRB ordered the County to "return to the status quo, and reinstate the work schedule in place prior to June 11, pending the hearing on the complaint." *Id.* The parties were further directed to "meet and confer in an effort to resolve the issues raised in this case" and be prepared to report the result of such discussions at the pre-hearing conference. *Id.*

#### Issues for Determination by the Board

1. Whether the PELRB has jurisdiction over all of the Union's claims.
2. Whether the County violated RSA 273-A:5, I (a), (b), (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 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. At the pre-hearing conference, the parties reported that they have not yet reached a settlement and jointly requested that the proceedings in this case be continued to allow the parties additional time to resolve the dispute. The parties' request is granted. Accordingly, the adjudicatory hearing scheduled for August 1, 2017 is cancelled. There shall be no further proceedings in this case until **September 12, 2017**, at which time this case shall be dismissed unless one of the parties files a request for a hearing or other appropriate relief on or before September 12, 2017. The parties are encouraged to continue working toward the resolution of this matter and to utilize the contractual grievance procedure to resolve any remaining contractual disputes. See *Appeal of City of Manchester*, 153 N.H. 289, 293 (2006)(PELRB "does not generally have jurisdiction to interpret the CBA when the CBA provides for final binding arbitration"). The parties shall promptly inform the PELRB of any resolution of this case in the interim.

So ordered.

Date: 7/13/2017

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

Distribution: Elizabeth A. Bailey, Esq.  
Paul Brunetti, Esq.  
John Richardson, Esq.