



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

**National Correctional Employees Union**

**v.**

**Hillsborough County, Department of Corrections**

**Case No. G-0014-2**

**Decision No. 2017-188**

**Order on Request for Review of Hearing Officer's Decision**

Hillsborough County filed a request for review of the hearing officer's Decision No.

2017-131 pursuant to Pub 205.01, which provides in part as follows:

(a) Any party to a hearing or intervenor with an interest affected by the hearing officer's decision may file with the board a request for review of the decision of the hearing officer within 30 days of the issuance of that decision and review shall be granted. The request shall set out a clear and concise statement of the grounds for review and shall include citation to the specific statutory provision, rule, or other authority allegedly misapplied by the hearing officer or specific findings of fact allegedly unsupported by the record.

(b) The board shall review whether the hearing officer has misapplied the applicable law or rule or made findings of material fact that are unsupported by the record and the board's review shall result in approval, denial, or modification of the decision of the hearing officer. The board's review shall be made administratively based upon the hearing officer's findings of fact and decision and the filings in the case and without a hearing or a hearing de novo unless the board finds that the party requesting review has demonstrated a substantial likelihood that the hearing officer decision is based upon erroneous findings of material fact or error of law or rule and a hearing is necessary in order for the board to determine whether it shall approve, deny, or modify the hearing officer decision or a de novo hearing is necessary because the board concludes that it cannot adequately address the request for review with an order of approval, denial, or modification of the hearing officer decision. All findings of fact contained in hearing officer decisions shall be presumptively reasonable and lawful, and the board shall not consider requests for review based upon objections to hearing officer findings of fact unless such requests for review are supported by a complete transcript of the proceedings conducted by the hearing officer prepared by a duly certified stenographic reporter.

After careful consideration of the motion by the Board, including thorough review and discussions of the parties' filings, the hearing officer's decision, the hearing transcript, and the exhibits, we find that the hearing officer's findings of fact are supported by the record and the hearing officer's legal conclusions are correct under the circumstances of this case. Therefore, in accordance with the provisions of Pub 205.01, we unanimously approve the hearing officer's decision.

However, we would like to comment upon our impression of the parties' efforts to negotiate. First, we note that, after wages, a health insurance benefit is perhaps the next most significant and important term and condition of employment. We also recognize that in mid-December, 2016 there was limited time and opportunity to find replacement insurance given the looming end of the year deadline, and that, in light of the NCEU's recent certification as the new bargaining agent, the NCEU and the County had not yet developed a "working relationship." Nevertheless, in our judgment, the parties did not use their best efforts to negotiate over the insurance benefit once the NCEU was certified as the unit's new bargaining agent, either prior to or after January 1, 2017. Instead, this matter devolved too quickly into hardened positions, and the opportunity to negotiate a resolution acceptable to all was likely missed. We expect the parties to keep this admonition in mind going forward.

So ordered.

Date: October 23, 2017

/s/ Andrew Eills  
Andrew Eills, Esq., Chair

By vote of Chair Andrew Eills, Esq., Board Member Carol M. Granfield, and Board Member Senator Mark Hounsell.

Distribution: Carolyn M. Kirby, Esq.  
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