

AFSCME Council 93, Local 365, Nashua Dept. Of Public Works v. City of Nashua Public Works and Parks-Recreation Commission, Decision No. 2009-029 (Case No. G-0045-15)

Background: The union filed an unfair labor practice complaint against the city alleging that the city breached the collective bargaining agreement (CBA), violated the obligations of good faith, and invalidated portions of the CBA because the city used non-bargaining unit employees to do bargaining unit work. The union claimed that the parties arbitrated a similar issue previously, which resulted in arbitration award in favor of the union, and that the city disregarded the arbitration award by authorizing actions previously found to be a violation of the CBA. The union did not grieve the incident at issue in this matter claiming that the grievance procedure was allegedly unworkable and that the grievance was not required given the previous arbitration award. The city denied the charges claiming that the previous arbitration decision was not controlling the present matter, that the work at issue was not exclusively bargaining unit work, and that the present dispute should have been addressed through the contractual grievance procedure.

Decision: The PELRB found that the subject matter of the union's complaint should have been addressed through the grievance procedure contained in the CBA because the question of whether the previous arbitration award constituted a binding precedent was the question to be determined in arbitration since the previous arbitration award did not clearly dictate the scope of its precedential effect. The PELRB dismissed the union's complaint.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.