

Pittsfield Town Employees, AFT Local #6214, AFT-NH, AFL-CIO v. Town of Pittsfield, Board of Selectmen, Decision No. 2013-055 (Case No. G-0060-9).

Background: The Union claimed that the Town violated RSA 273-A:5, I (e), (g), (h), & (i) when it demanded a doctor's note from certain bargaining unit employees who had been on sick leave for fewer than five days. The Union alleged that the Town's actions were contrary to the parties' collective bargaining agreement (CBA), constituted a failure to bargain in good faith over a mandatory subject of bargaining and to comply with RSA 273-A, and represented a policy that invalidated a portion of the CBA, which contained a provision that allowed the Town to ask an employee for a physician's note after the 5th day of absence due to sickness. The Town denied the charges and asserted that, under the relevant contract language, the Town was entitled to demand a doctor's note from an absent employee at any time.

Decision: The Hearing Officer found that because the relevant CBA language was ambiguous, examination of past practice and extrinsic evidence was necessary for interpreting the intention of the parties. There was longstanding and mutually recognized and accepted past practice which supported a finding that employees were not required to produce a physician's note for sickness lasting fewer than 5 days. The Hearing Officer found that the Town violated RSA 273-A:5, I (e), (g), (h), & (i) when it unilaterally required certain employees to produce a doctor's note before the fifth day of absence, thereby breaching the parties' CBA, unilaterally changing a term/condition of employment, and adopting an unwritten rule that invalidated a provision of the CBA. The Town was ordered to cease and desist from requiring employees to produce a doctor's note for sick leave absences lasting for fewer than 5 days.

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.