State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Laconia Education Association, NEA-New Hampshire Complainant v. Laconia School District Respondent	*	Case No. T-0239-22 Decision No. 2002-078

APPEARANCES

Representing Laconia Education Association:

Steven R. Sacks, Esq.

Representing Laconia School District:

Paul Fitzgerald, Esq.

Also appearing:

Robert A. Champlin, Superintendent, Laconia School District
Robert R. Gunther, Laconia Education Association
Richard H. Coggon, Laconia Education Association

BACKGROUND

The Laconia Education Association, NEA-New Hampshire ("Association") filed unfair labor practice (ULP) charges against the Laconia School District ("District") on August 20, 2001 alleging violations of RSA 273-A:5 I (a), (b), (c), (g) and (h) resulting from unilateral changes to the terms and conditions of employment of a teacher because of his union activities, restraint and coercion of a bargaining unit employee in the discharge of his duties as a union official and domination of the administration of an employee organization by doing so. The

employee/grievant who is the subject of these proceedings is/was not a probationary employee. The Laconia School District filed its answer and a motion to dismiss on September 4, 2001. Thereafter, the parties participated in a pre-hearing conference on or about October 12, 2001. The Association then filed objections to the District's motion to dismiss on October 30, 2001 which caused the District to file a response thereto on November 5, 2001. Meanwhile, the Pre-Hearing Memorandum and Order, Decision No. 2001-105, set a PELRB hearing date of November 13, 2001. That hearing date was continued by the parties with the result that the parties were rescheduled for and appeared at a hearing before the PELRB on December 11, 2001.

During the Board proceedings of December 11, 2001, the District's counsel announced that the parties already had a grievance arbitration date of January 10, 2002 scheduled for this matter and that one of the remedies the District sought was to have the ULP held in abeyance pending the disposition of the grievance by the arbitrator. Upon learning that the grievance arbitration proceedings and the pending ULP sought the same relief for the involuntarily transferred teacher, the PELRB ordered this matter continued on its docket, directed the parties to proceed to arbitration pursuant to the collective bargaining agreement (CBA) and told the Association to notify the PELRB of the outcome of that arbitration within thirty (30) days of the date of the arbitrator's award. That order further provided that if neither party shall request an additional hearing within the aforesaid thirty day period following the date of the arbitrator's decision, then this ULP shall be dismissed from the Board's docket of cases, PELRB Decision No. 2001-129, dated December 21, 2001. On March 5, 2002, counsel for the Association filed a copy of the arbitrator's award with PELRB which was dated February 8, 2002. (AAA Case No. 1139-00212-01.) That award sustained the grievance, directed that the grievant should be reassigned to his former duties and that he should be made whole.

On March 8, 2002, counsel for the District filed an "Appeal of Arbitrator's Award" with the PELRB under the thirty day window provided in Decision No. 2001-129. Among other relief sought, the "appeal" sought a *de novo* hearing of the subject matter of the grievance. A review of the arbitrator's Opinion and Award reveals that the parties agreed to the issues in dispute in those proceedings, namely, "Whether the School District violated Articles 12.2 and 12.5 of the Collective Bargaining Agreement when it transferred Robert Gunther involuntarily to an elementary school teaching position? If so, what shall be the remedy?"

On March 25, 2002, the Association filed an objection to the District's appeal of the arbitrator's award. This was supplemented by a subsequent filing by the Association on March 29, 2002 entitled an "Additional Objection to School District's Appeal." On April 1, 2002, the PELRB gave notice of a hearing date of May 16, 2002 to the parties in order that they might make their respective presentations on the District's appeal. On April 5, 2002, counsel for the Association filed a letter with the PELRB objecting to any attempt on the part of the District "to relitigate this entire grievance" or to engage in a *de novo* hearing. On April 17, 2000, counsel for the Association filed yet another letter with the PELRB saying that he and counsel for the District proposed that the May 16, 2002 hearing be limited to oral argument on "legal issues" described as being threshold questions, namely, the PELRB's jurisdiction to hear the appeal and the scope and nature of the PELRB's review of the arbitration award.

Upon receipt of the foregoing letters from counsel about how the District's appeal would proceed, the PELRB's jurisdiction, and the scope of the PELRB's review, the PELRB, meeting on April 18, 2002, directed the parties to file preliminary briefs on or before May 20, 2002, and ordered that the May 16, 2002 hearing stand continued on the Board's docket until such time as the briefs were received and reviewed by the PELRB and the PELRB shall have assessed whether an additional hearing is warranted. Both parties submitted their briefs in a timely manner.

Commensurate with the parties' filing their May 20, 2002 briefs, the District also proffered an affidavit of Terri Forsten, principal of the Pleasant Street Elementary School in Laconia. This was followed by the Association's filing of a Motion to Strike that affidavit dated May 24, 2002 but received at PELRB on May 28, 2002. On May 28, 2002, the District resubmitted the Forsten affidavit because the deponent had not signed the version earlier submitted to the PELRB by the District. On June 3, 2002 the PELRB issued a Notice of Hearing to the parties for the limited purpose of conducting oral arguments on the May 20th briefs and on the pending affidavit. The noticed hearing date was June 13, 2002. On June 5, 2002 the District filed an objection to the Association's Motion to Strike. Both parties thereafter appeared before the PELRB for oral argument on June 13, 2002, with the affidavit issue being considered first, followed by the matter of the appeal predicated on the issues identified in PELRB Decision No. 2002-051, para. 3, dated April 25, 2002.

FINDINGS OF FACT

The issues in these proceedings are as identified in the PELRB's Order Directing Briefing Schedule, Decision No. 2002-051, dated April 25, 2002 and in its Notice of Hearing dated June 3, 2002. The parties positions are as reflected in their respective pleadings, motions, responses and briefs.

DECISION AND ORDER

During oral argument on the Association's Motion to Strike, the PELRB heard representations from the Association's counsel that the contents of the affidavit introduced new testimony, which was not presented at the arbitration hearing, although the affiant was present at those proceedings and available to testify if called to speak to issues later raised in the affidavit or for rebuttal. Association counsel also asserted that the attempted introduction of the affidavit was beyond the scope of the board's briefing order, referenced herein as Decision No. 2002-051.

The District's counsel argued that it is not uncommon to attach affidavits to motions as a means of supporting a claim of factual error made by the arbitrator. Counsel acknowledged that it was the District's responsibility to prevail on the burden of persuasion in order to obtain a *de novo* hearing and that the affidavit was an instrument he hoped would persuade the PELRB to grant such a hearing. It was not intended that this document, standing alone, would be cause to modify or vacate the arbitrator's findings and award, in whole or in part.

Upon motion made by Member Molan and seconded by Member Osman, it was unanimously voted to grant the Association's motion to strike the affidavit from the record of

these proceedings, i.e., with the practical effect that the affidavit was not admitted into the record of these proceedings.

The parties then proceeded to address the issues in the briefing order (Decision No. 2002-051) which included (a) jurisdiction, (b) scope and nature of such an appeal and (c) appeal issues beyond those contained in the original ULP.

We begin this portion or our analysis as it applies to jurisdiction by reviewing the parties' CBA. Article IX therein provides for a grievance procedure. Article IX Section 4, Level D defines the arbitrator's role as follows:

> The arbitrator's power and authority shall be limited to interpretation and application of the provisions of this Agreement and the arbitrator shall have no power or authority to add to, subtract from, alter, or modify any of the provisions of this Agreement, and finally, the arbitrator shall have no power or authority to order the reinstatement of any teacher who is dismissed or non-renewed by the School Board... The arbitrator's decision shall be *binding* of [sic] both parties... (Emphasis added.)

Article XII, the "Miscellaneous" article provides, in pertinent part:

> 12.2 The District and the Association agree that there shall be no discrimination and that all practices, procedures and policies of the school system shall clearly exemplify that there is no discrimination in the hiring, training, assignment, promotion, transfer or discipline of teachers, or in the application or administration of this Agreement on the basis of race, creed, color, religion, age, national origin, gender, domicile, marital status, membership and/or activity in the Association.
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> 12.5 No teacher will be disciplined, reprimanded, or suspended except for just cause. For purposes of this Agreement, discipline shall not include issues of dismissal, or non-renewal, which fall under the appropriate RSA's.

These foregoing provisions were specifically and individually mentioned in the arbitrator's award of February 8, 2002. We have no reason to believe that the arbitrator was not mindful of or did not consider them. Likewise, Article XII infractions were specifically referenced in what the arbitrator referred to as "issues in dispute as *agreed* by the parties" (emphasis added):

> Whether the School District violated Articles 12.2 and 12.5 of the Collective Bargaining Agreement when it transferred Robert Gunther involuntarily to an elementary school teaching position?

If so, what shall be the remedy?

Lastly, in our analysis we are mindful that the parties, at the District's initiative, sought to and then agreed to proceed first to arbitration, in lieu of pursuing the ULP, during their meeting before the PELRB on December 11, 2001 (Decision No. 2001-129). Given this development, the record before us gives every impression that the parties knew what they were doing and proceeded to arbitration consensually. The trail to arbitration is marked by the grievance itself, the results of Decision No. 2001-129, the stipulated issues before the arbitrator and, finally, by the contract grievance language. There is no issue as to the parties' intent and agreement to arbitrate within the scope of Appeal of Westmoreland School Board, 132 N.H. 103, 109 (1989) and Appeal of City of Nashua, 132 N.H. 699, 701 (1990).

In the context of this situation, we examine our role in reviewing arbitration proceedings. Issues involving arbitral review predate RSA 273-A, passed in 1975, and find roots in the private sector. In Southwestern New Hampshire Transportation Co. v. Durham, 102 N.H. 169, 173 (1959), the Court said, "In this state the arbitration of disputes statute (RSA ch. 542) applies to arbitration agreements between employers and employees only if such agreement specifically provides that it shall be subject to the provisions of this chapter." By 1983, this concept had been adopted in the public sector.

> The statute governing arbitration, RSA chapter 542, permits judicial review of an employment-related arbitration award, see RSA 542:8, only when the parties' arbitration agreement specifically provides that it shall be subject to the provisions of [the] chapter.... The working agreement in this case made no reference to RSA Chapter 542 and did not provide for an appeal to the PELRB. To the contrary the agreement expressly stated that the arbitrator's decision was to be binding upon both the union and the city. As a consequence, we hold that the PELRB correctly ruled that the arbitrator's decision was not subject to review.
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> Appeal of Int'l. Assn. of Firefighters v. City of Berlin, 123 N.H. 404, 409 (1983).

We note, coincidentally, that the facts of IAFF, above, square with this case, i.e., final and binding arbitration, no RSA 542 reservation and no reservation for PELRB intervention or review.

By 1985, this board was faced with the converse of IAFF, a case where there was no language in the CBA providing that the agreed-upon grievance procedure was final and binding on the parties. In Appeal of Hooksett School Dist., 126 N.H. 202, 204 (1985), the Court affirmed that "grievance language specifically negotiated and agreed upon is binding on both the public employee and public employer" and noted that the Hooksett contract did not provide "for final or binding arbitration or other final disposition." It continued, "Absent a provision for binding arbitration following the grievance procedure, and with no explicit or implicit language in the contract stating that...the grievance procedure is final and binding...the

PELRB, in the context of an unfair labor practice charge, has jurisdiction as a matter of law to interpret the contract in order to determine if, when and how parental leave should be awarded.[1]" Notwithstanding this clarification of arbitration procedures vis-à-vis PELRB jurisdiction, later in 1985 the Court reaffirmed or amplified upon, depending on one's perspective, the board's role in reviewing an arbitration award. "The PELRB has no general authority to review an arbitration award, absent some indication the parties intended to reserve a right to administrative review of the award." Bd. of Trustees v. Keene State Coll. Educ. Assn., 126 N.H. 339, 342 (1985).[2] As in the instant Laconia case and unlike Nashua v. Murray, below, the Keene, litigation *followed* the arbitration proceedings, i.e., was not in the nature of "gatekeeper" proceedings.

In City of Nashua School Dist. v. Murray, 128 N.H. 417, 419 (1986), the Court instructed on the issue of arbitrability, presumably prospectively, rather than after-the-fact as is the case here, as suggested by the terminology "threshold question" and "the board's primary role when the dispute precedes arbitration." "[W]e are convinced that, in the absence of a contractual provision granting the arbitrator authority to determine arbitrability of a given dispute, the board has exclusive original jurisdiction over the threshold question of arbitrability." This introduced the "gatekeeper" concept of the board's responsibility in assessing the arbitration process before the hearing and, obviously, before the award. In the instant case, there was no issue of arbitrability nor was there any attempt to block the arbitration process when the parties appeared before the PELRB on December 11, 2001. The parties went so far as to seek to divert to arbitration and to stipulate issues for the arbitrator.

The circumstances triggering the PELRB's "exclusive original jurisdiction over the threshold question of arbitrability" were reiterated as recently as Appeal of Belknap County Commissioners, 146 N.H. 757, 761 (2001). They remain the same as they were in 1986 in Nashua v. Murray. In a matter of days after Belknap, the Court decided Appeal of State, Slip. op. October 29, 2001, Docket No. 99-644, which reiterated, drawing on Appeal of Campton School Dist., 138 N.H. 267, 270 (1994), that, "absent a grievance process in a CBA, of which the last step implicitly or expressly mandates final and binding arbitration, 'the PELRB in the context of an unfair labor practice charge, has jurisdiction as a matter of law to interpret the [CBA]'.... Implicit in this rule is the understanding that the PELRB does not regularly have

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[1] This concept was reiterated in modified form in Appeal of AFSCME, Local 3657, Londonderry Police Employees, 141 N.H. 291, 293 (1996), in the context of arbitrability. "It is undisputed that the CBA does not by its terms grant the arbitrator authority to determine arbitrability. Absent such a contractual provision, the PELRB has the 'discretion to determine whether a dispute involves a matter covered by the collective bargaining agreement,' " citing also to Appeal of Hinsdale Fed'n. of Teachers, 138 N.H. 88, 90 (1993).

[2] The present case comes to the PELRB by way of an "appeal" filed by the District on March 8, 2002 (see p. 2 above) under the 30 day window provisions of Decision No. 2001-129. As such, we have not entertained the additional components of Keene State, *id.*, which suggest "in the context of an unfair labor practice proceeding...[the PELRB's] authority to address the issue of an arbitration award's consistency with the terms of the governing CBA is a necessity incident to the PELRB's jurisdiction under RSA 273-A:5 I (h) and RSA 273-A:6 I." The instant case, in the form of an appeal, has not been processed as a ULP. Likewise, the form of the instant appeal strains the purpose of the 30 day window which, generally, was intended to allow the parties to file for additional proceedings before the PELRB if the results of the arbitration case did not address the statutory claims of the Association, the same claims which would have been heard on December 11, 2001 but for the diversion to arbitration. (Assoc. brief, p.4, item 4) The results of the arbitration proceedings were satisfactory to the Association, as evidenced by the request for an additional hearing being filed by the District, not by the Association.

jurisdiction to interpret the CBA when it provides for final and binding arbitration."[3] The Court concluded by referring to W. R. Grace v. Rubber Workers, 146 US 757, 764 (1983), in which the U.S. Supreme Court observed, "when the parties include an arbitration clause in their [CBA], they choose to have disputes concerning constructions of the [CBA] resolved by an arbitrator."[4]

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[3] The language in Appeal of Campton School Dist. is also restrictive in the context of the case at hand. "When the parties to a collective bargaining contract have not agreed to be bound by an arbitrator's decision, the PELRB, in the context of an unfair labor practice charge, must conduct a *de novo* evidentiary hearing." In this case, the parties have agreed to binding arbitration and, thus, are excluded from additional review by the PELRB, unless there was a contractual provision or other memorialization to reserve the right of administrative review of the arbitrator's decision. There is no such reservation in this case. Notwithstanding what might appear as a hardship on parties who lack that reservation, it is consistent with public policy. The parties negotiated their own grievance procedure. Neither sought PELRB review before proceeding to arbitration. Upon receipt of the arbitrator's decision, they have realized the benefit of their bargain. The Court's reliance on "final and binding" determinations to bar further review is consistent with public policy. The parties' agreement to utilize binding arbitration as a swift, private and final mechanism to resolve contractual disputes should not subsequently subject one of them to additional and unexpected costs of appellate litigation.

[4] This observation from the U. S. Supreme Court is replete with public policy considerations, with practicalities of using an existing procedure before going outside the contract to an administrative tribunal, and with a requirement that the parties honor their contractual promises to each other. It has the simplicity, grace and embodiment of the parties' proposition, "If we agreed to arbitrate the issue, then we arbitrate it." An obvious administrative law complication occurs with the double-barreled approach of proceeding to arbitration and filing a ULP at essentially the same time, causing each process to run along parallel tracks, consuming duplicative effort, time and expenses both for the parties and for the tribunal(s). This is neither practical nor in the spirit of the parties' agreement to arbitrate. It also creates the unnecessary potential of divergent results between the two processes. None of these consequences is consistent with the public policy reasons associated with the arbitration process.

We expect that we can avert the confusion and potentially divergent results inherent in the foregoing scenarios by an increased emphasis on requiring the parties to complete the grievance process under their CBA's if this resolution of the grievance is or may be dispositive of the pending ULP, if it is clear that the grievance can be processed within or under the terms of the CBA, or if there is no cause shown why the PELRB would need to intervene in a "gatekeeper" capacity, such as on a preliminary issue of arbitrability in the context of Nashua v. Murray and Appeal of Campton School Dist., above.

This pragmatism is not without precedent from the private sector and procedures of the NLRB. As early as 1963, the NLRB determined "that deferral of [an alleged] section 8(a)(3) [violation under the NLRA] was appropriate pending completion of the grievance-arbitration procedure, provided the dispute had already been submitted to that procedure." Dubo Mfg. Corp., 142 NLRB 431 (1963) and The Developing Labor Law, 3rd Ed., Vol 1, p. 1029, Bureau of National Affairs (1996). This cleared the way for the NLRB to defer action pending completion of the grievance-arbitration process where the dispute was already being handled within that process. This is essentially what happened in this Laconia Education Association case, but by agreement of the parties rather than by PELRB fiat.

The NLRB's earlier deferral to arbitration doctrine, coming from Speilberg Mfg. Co., 112 NLRB 1080 (1955), applied to cases where review was sought *after* the arbitration award had been rendered, similar to the circumstances in the instant Laconia case. We cannot embrace the Speilberg principles in their entirety because of state law considerations, as discussed on pages 5 and 6, above. Speilberg is instructive, however, on another issue, namely the test or standards pertaining to when to defer. They were originally three in number: (1) that the deferred-to proceedings be fair and regular, (2) that all parties agree to be bound, and (3) that the decision not be repugnant to the purposes of the NLRA. See The Developing Labor Law, 3rd Ed., Vol. 1, p. 1018, Bureau of National Affairs (1996). A fourth test was added in 1963, namely, "that the issue involved in the unfair labor practice case must have been presented to and considered by the arbitrator or at least that the contrary not be evident." See Raytheon Co., 140 NLRB 883 (1963).

The NLRB decided Collyer Insulated Wire, 192 NLRB 837 in 1971. The Developing Labor Law, *id.*, p. 1019-1020, characterized Collyer as "a watershed in the accommodation of Board authority to the parties' private arbitration machinery....It was not until Collyer that a definite system of pre-arbitral referral was adopted," this time for an alleged 8(a)(5) charge for a failure to bargain and unilateral change in conditions of employment. In a

Ever since the passage of the Wagner (National Labor Relations) Act and the United States Arbitration Act, both in 1935, the concept of arbitration and the settlement of disputes using arbitration has become more pervasive in United States society, first as an adjunct to the labor-management process and, later, in a broader assortment of dispute resolution scenarios, e.g., Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20 (1991) and Circuit City v. Adams, 532 U.S. 105 (2001). The essence of this transformation is simply this: the more necessary it became to have access to quick, effective, consensual, less expensive, private and experienced or expert dispute resolution procedures, then the greater the shift in public policy, via the counts and legislatures, to accommodate these needs. The need for "workable grievance procedures" in RSA 273-A:4 is one such example.

The mandates of RSA 273-A:4 direct our attention to grievance arbitration as it exists under collective agreements or agreements to arbitrate in this state. The arbitration process has long been recognized as an integral part of society and of labor-management relations.

> [A]rbitration is an integral part of the system of the government. And the system is designed to aid management in its quest for efficiency, to assist union leadership in its participation in the enterprise, and to secure justice for the employees. It is a means

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majority opinion, the NLRB determined that it "should and would defer to existing grievance-arbitration procedures *prior* to either party's invocation of those procedures." (Emphasis added) The Developing Labor Law, *id.*, p. 1020. The Speilberg standards were transformed but, nevertheless, maintained a recognizable structure, to wit: (1) the dispute arose within the confines of a long and productive collective bargaining relationship, (2) there was no claim of "enmity" by the company relating to the employees' exercising protected rights, (3) the respondent was willing to utilize arbitration under a broadly constructed contract grievance procedure which covered a broad range of disputes, and (4) that broad range of disputes encompassed the pending dispute before the NLRB. See The Developing Labor Law, *id.*, p. 1020. One of the cornerstones of Collyer was the recognition of "a national policy of encouraging resolution of labor disputes through the grievance-arbitration machinery." The Developing Labor Law *id.*, p. 1021. New Hampshire already has its policy counterpart in the form of RSA 273-A:4.

The NLRB tinkered with its deferral doctrine for more than a decade after Collyer. Despite intervening ups and downs in that doctrine after the 1971 Collyer decision, in 1984 the NLRB decided United Technologies, 268 NLRB 557. That decision reiterated the standards found in the immediately prior paragraph and added yet another element, namely, that "the dispute was eminently well suited to resolution by arbitration." 268 NLRB 557, 558. In referring the dispute in United Technologies to arbitration, the NLRB reiterated that this was "merely the prudent exercise of restraint, a postponement of the use of the Board's process to give the parties' own dispute resolution machinery a chance to succeed." 268 NLRB 557, 560.

While detailed, this reprise has served us well. It has convinced us that we acted with prudence, with efficiency and within the confines of the parties' CBA when, pursuant to the District's urgings and the Union's consent, we directed the parties to proceed to arbitration. PELRB Decision No. 2001-129. The parties acted responsibly and within the definitional elements of the CBA when they requested and then participated in arbitration. Likewise, the arbitrator's award, except for its lack of implementation, essentially covered the subject matter of the ULP, i. e., the remedy awarded by the arbitrator virtually eliminated any remaining statutory claims and, upon implementation, would appear to have addressed the outstanding concerns of and relief sought by the Association. Finally, whether by the parties' own initiative or through suggestion or urging by this Board, we find deferral, under the guidelines set forth in this footnote, to have been constructive, dispositive and a credit to the purposes of arbitration and ADR generally, such that quick, effective, economical, final, private and focused contract grievance-arbitration proceedings may effectively serve as a useful tool for disputes which have footholds in both the grievance procedure of the contract and in statutory rights and remedies available under RSA 273-A.

> of making collective bargaining work and thus preserving private enterprise in a free government.[5]

Just as arbitration has expanded in scope to meet expanded needs of millions of additional users precipitated by the advent of public sector collective bargaining in the 1960's and 1970's, so, too, has arbitration competed with older, more traditional types of litigation and judicial adjudication. Here the history of the various processes varies, with arbitration being more informal, usually quicker, and often without the benefit of a formal (verbatim) record, without discovery and lacking a procedure for formalized review.[6] This board has authority to review arbitration proceedings, on "threshold" issues, *before* the hearing, on procedural issues, such as arbitrability. Nashua v. Murray, *supra.* This board also has the authority to review arbitration awards, after they are issued, 1) in the context of an unfair labor practice and 2) if there is no contractual provision calling for final and binding arbitration of grievances. Campton School Dist., *supra.* The Laconia School District case fails on both counts. It is not in the context of a ULP; that was filed by the Association which was satisfied with the arbitrator's award. Second, the applicable contract language called for a binding award. The parties must now be satisfied with the benefit of their bargain. Implicit in the "final" and "binding" nature of an arbitration clause which has not reserved RSA 542 or other rights of review is the promise of the parties to each other, that, as part and parcel of using a contractually agreed-upon grievance procedure, they will exhaust that procedure and, after the final step of arbitration, will move on to resuming the business of the employer. Stated differently, they have agreed to end their dispute with the binding arbitration award and must now do so.

The foregoing analysis leads us to conclude that it would be inappropriate to grant further review of the arbitrator's award under the language and circumstances of this case. Thus, the District's appeal must be dismissed and its request for further relief denied. Conversely, the parties are now left with a binding arbitration award which, lacking relief from these proceedings or from a court of competent jurisdiction, must be implemented.

So ordered.

Signed this 18th day of July, 2002.

JACK BUCKLEY
Chairman

By unanimous vote. Chairman Jack Buckley presiding. Members Richard E. Molan and Seymour Osman present and voting.

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[5] Harry Schulman, "Reason, Contract and Law in Labor Relations," 68 Harv. Law Rev. 959, 1024 (1955). Mr. Schulman was Dean of Yale Law School.

[6] In order for parties to preserve a right of judicial review after an arbitration proceeding they must specifically reference RSA 542 provisions in their CBA or agreement to arbitrate. States which have adopted the Uniform Arbitration Act have a specific set of review standards under that uniform law.