

*Carrying out inv- security function
IBPO - State Police
Dept. of Safety & SEA*

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS:
(IBPO)

Petitioner :

and :

STATE EMPLOYEES' ASSOCIATION OF N. H.

Incumbent :

and :

STATE OF NEW HAMPSHIRE, DEPT. OF SAFETY

Public Employer :

CASE NO. P-0713 & P-0713:1

DECISION NO. 780027

APPEARANCES

Representing the Petitioner, IBPO:

David W. Downes, Esq., Boston, Massachusetts

Representing the Incumbent, SEA:

Howard Zibel, Esq., Cleveland, Waters & Bass, Concord, N.H.

Witnesses:

For IBPO: Trooper Paul Griffin, Department of Safety

For SEA: Richard E. Molan, Asst. Executive Director
Thomas Hardiman, Field Representative

BACKGROUND

In February, 1977, the International Brotherhood of Police Officers (IBPO) through its representative, William G. Norton, Executive Director, filed a petition for certification for a proposed unit of 200 full time troopers, up to and including sergeants, employed by the State of New Hampshire.

Richard M. Flynn, Commissioner, Department of Safety, filed exceptions to the petition, stating:

1. SEA had already been certified as the exclusive representative for all classified employees within the Safety Department.
2. Negotiations between SEA and the State were under way.
3. Sergeants, as assistant troop commanders were supervisory personnel.

4. Community of interest of all Dept. of Safety employees would be weakened by the removal of the State Police from the unit.

On March 1, 1977, SEA filed an exception to the IBPO petition questioning the validity of the petition cards and requested an opportunity to examine all portions of the petition cards except the names and requesting additional action and relief from the Board.

Hearing date was set for March 31 at 2:30 p.m. in the Legislative Office Building and prior to the hearing, SEA again requested permission to examine the signed cards. Chairman Edward Haseltine responded on March 22nd denying SEA's request on the grounds that the information was confidential and not considered public document.

On March 30, 1977, SEA filed a bill in equity for ex parte temporary restraining order and injunctive relief pursuant to RSA 91-A:7 in Merrimack County Superior Court.

On April 6, 1977, Judge Charles J. Flynn granted IBPO's motion to intervene and dissolved the Ex parte order of March 30, 1977.

SEA through its Counsel, Howard J. Zibel, filed a "Motion to Dismiss" questioning the timeliness of the petition cards and requesting a decision on their motion prior to the scheduled hearing on May 6, 1977. No decision prior to May 6th.

At the May 6th hearing PELRB dismissed the original petition and IBPO agreed to resubmit a petition by August 6, 1977. Petition for Decertification was filed by IBPO on May 24, 1977 for a proposed unit to include troopers and sergeants. Petition was accompanied by 95 individual signature cards from classified employees of the Department of Safety, State Police.

Hearing on the decertification petition was held on July 22, 1977 in the Labor Committee Room, 306, of the Legislative Office Building in Concord and IBPO requested and was granted permission to amend their petition to include the rank of corporal to the unit.

At the conclusion of the hearing, the Board took the matter under advisement and accepted the additional signature cards to comply with RSA 273-A:10(a) for a total of 102 as a sufficient showing of interest. Counsel for SEA agreed to allow the extra cards and both parties agreed that the signed cards would remain valid until December 31, 1977.

Considerable time was spent in the discussion of a proposed rule change to allow other employee organizations to petition for modification of existing bargaining units under the provisions of Chapter 490:3 of the Laws of 1975, whereby an employee organization other than the exclusive representative would be entitled to file such a petition, only during time periods, or under conditions, when it would be entitled under the statute or rules, for an election to be certified as the exclusive representatives. At other times, only the employer or exclusive representative would be allowed to file for modifications.

Board adjourned without any decisions pending careful review of the validity of the signed cards submitted by IBPO.

FINDINGS OF FACT

1. SEA is the recognized exclusive representative of the bargaining unit comprised of all classified employees of the Department of Safety.

2. All employees of the State Police who hold the rank of trooper, sergeant and corporal are part of the recognized unit of the Department of Safety.

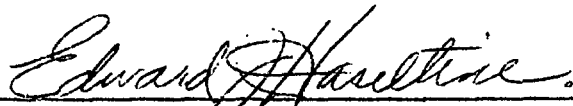
3. Review of the signature cards submitted by IBPO indicated certain discrepancies to the extent that the defective cards resulted in less than the minimum requirement under RSA 273-A:10(a) and precluded IBPO from meeting the requirement.

4. IBPO representative, Counsel David Downes, was afforded an opportunity to check and verify the Board's count and invalidation of the defective cards.

DECISION AND ORDER

Pursuant to the findings and evidence presented at the hearings, PELRB rules as follows:

- A. Motion to Dismiss the IBPO decertification petition as filed by the State Employees' Association is hereby granted.
- B. Decertification petition submitted by the International Brotherhood of Police Officers (IBPO) is hereby dismissed.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 30th day of June, 1978.

By unanimous vote of the Board. Members voting: Edward J. Haseltine, Chairman, Richard H. Cummings, James C. Anderson and Joseph B. Moriarty. Absent: Member Edward L. Allman. Also present: Counsel Bradford Cook and Clerk Evelyn C. LeBrun