

*Rehearing & reaffirmation
of unit*

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS FOR DERRY FIRE FIGHTERS

Petitioner

and

DERRY FIRE DISTRICT (DEPARTMENT)
DERRY, NEW HAMPSHIRE

Public Employer

CASE NO. F-0113

DECISION NO. 780031

APPEARANCES

Representing the International Association of Fire Fighters:

Martin E. Pierce, Vice President, International Association
Thomas J. Houghton, State Representative, IAFF

Representing the Town of Derry, New Hampshire:

James A. Sayer, Jr., Esq., Counsel
James J. Cote, Chief

BACKGROUND

PELRB on January 25, 1978 determined the bargaining unit for the Derry Fire Department consisting of the Fire Prevention Officer, Dispatchers and Fire Fighters; i.e., Emergency Medical Technicians; Advanced First Class Red Cross Card Holders and excluded the Chief, Deputy Chiefs, Captains and Lieutenants.

On January 30, 1978, Thomas J. Houghton, IAFF State Representative, filed a request for rehearing on the Board's decision and on March 15, 1978, in reply to a letter from the Board, indicated that new evidence would be introduced in the form of oral and written testimony.

Request for rehearing was granted and rehearing held in the Board's offices in Concord on April 19, 1978 based on the alleged new evidence from witnesses who had been unable to attend the original hearing on December 21, 1977 which resulted in PELRB Order No. 780002 creating the bargaining unit for the Derry Firefighters.

FINDINGS OF FACT

1. Testimony from Sgt. George DeLanoy regarding his duties and responsibilities indicated that while he did not perceive his duties as "supervisory", his authority and action did squarely place his position in the rule of supervisory because of the present organizational structure of the Derry Fire Department.

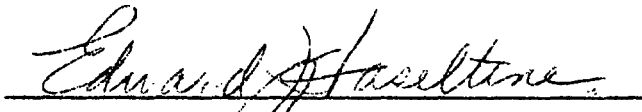
2. Testimony from other officers of the Department; namely, Lts. Cote, Wainwright and Capts. Cassidy, Grebe and Bunker, supported the original findings and order of this Board. Specific instances of authority to suspend, under certain conditions, was vested in the officers' positions.
3. Chief Cote testified that he had personally conveyed to the officers the fact that they did possess power to suspend subordinates.
4. Rules and Regulations of the Derry Fire Department, adopted in 1976, further alluded to the supervisory nature of the officer positions.
5. The organization of the Derry Fire Department is unique in that the Deputy Chiefs of the Department are not full-time Department employees, but rather Fire Commissioners. This factor alone transfers officer responsibilities, normally carried out by the Deputy Chiefs, to the next level of command; namely, Captains and Lieutenants, who are vested with more authority than would be the case where full-time Deputy Chiefs are involved.
6. Organizational charts of the Department were presented and reviewed and were not persuasive to the Board to warrant a change of its original conclusion of the supervisory nature and duties of the Lieutenants and Captains in the Derry Fire Department.

DECISION AND ORDER

After considering all the oral and written testimony at the original hearing on December 21, 1977 and the purported new evidence at the rehearing, April 19, 1978, and direct testimony of several Lieutenants and Captains, the Board rules, as follows:

PELRB reaffirms its decision in creating the bargaining unit for the Derry Fire Department contained in its order No. 780002 dated January 25, 1978:

"Unit consists of the Fire Prevention Officer, Dispatchers and Fire Fighters; i.e., Emergency Medical Technicians; Advanced First Class Red Cross Card Holders and excludes Chief, Deputy Chiefs, Captains and Lieutenants."


EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 5th day of July, 1978.

Present and voting: Chairman Edward J. Haseltine, Richard H. Cummings and James C. Anderson. Member Anderson voting in the negative. Also present Board Clerk, Evelyn C. LeBrun. Absent, Members Moriarty and Allman.