

STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

ROCHESTER POLICE OFFICERS' ASSOCIATION, :  
CHAPTER NO. 63, STATE EMPLOYEES' :  
ASSOCIATION OF NEW HAMPSHIRE :  
: :  
Complainant: :  
: :  
and : :  
: :  
CITY OF ROCHESTER, ROCHESTER, NEW :  
HAMPSHIRE, through its Agents, :  
Mayor John Shaw and City Solicitor, :  
Paul Urion :  
: :  
Respondents:

CASE NO. P-0712:1  
DECISION NO. 780043

APPEARANCES

Representing the Complainant, Rochester Police Officers Association  
SEA Chapter No. 63:

Richard E. Molan, Assistant Executive Director, SEA  
Thomas Hardiman, Field Representative, SEA  
Joseph Geldhof, Field Representative, SEA

Representing the Respondents, City of Rochester, Mayor Shaw and  
City Solicitor, Paul Urion:

Robert E. Fisher, Esq., Counsel  
Paul B. Urion, Esq., City Solicitor

Rochester Police Department:

R. Panatella, Jr.  
E. T. Wells

News Media:

Wayne Chick, Foster's Daily Democrat

BACKGROUND

As a result of a certification election held in accordance with RSA 273-A on June 9, 1977, the State Employees' Association of New Hampshire, Inc. was certified as the exclusive representative for all sergeants, patrolmen and policewomen in the Rochester Police Department for the purpose of collective negotiations and the settlement of grievances.

From July 10, 1978 through August 18, 1978, numerous attempts were made by the exclusive representative, SEA, to get to the business of negotiating their first agreement. All attempts failed. SEA on August 21, 1978 filed charges

of unfair labor practice against the City of Rochester, the Mayor and City Solicitor in accordance with RSA 273-A:5, I(e), refusal to negotiate in good faith with the exclusive representative of the bargaining unit.

Hearing on the ULP charges was held in Concord on October 5, 1978.

Evidence was presented at the hearing that SEA did in fact attempt to negotiate first with the Police Commission and later with Mayor John Shaw who referred them to City Solicitor Paul Urion. The attempts to schedule meetings were bounced between the City Solicitor and the Mayor with no resolution as to who would be the official representative at the negotiation table for the City.

Testimony at the hearing on behalf of the City by its solicitor, Paul Urion, and its legal counsel, Robert Fisher, indicated that representation of the City was not well defined. Some testimony indicated that the City Solicitor was the Chief Negotiator, other indicated that the Mayor was the only representative and still further testimony indicated that legal counsel, Attorney Fisher, was the spokesman for the City. PELRB could not conclude definitely who represented the City and is convinced that conclusion was desired by the City to confuse the issues at the negotiating table.

Further testimony indicated that several telephone calls remained unanswered when the representative from SEA requested meeting dates for the purpose of negotiations.

During this period, a decertification petition was filed on behalf of certain members of the Rochester Police Department by City Solicitor Paul Urion. Petition clearly was not in order as Mr. Urion as City Solicitor is the representative for the public employer. RSA 273-A does not convey this right or privilege upon the public employer or his representative. The petition was denied by PELRB.

Attorney Robert Fisher as Counsel for the City stated he had advised the City not to negotiate with the exclusive representative, SEA, on the basis that a decertification petition had been filed; this was the only basis for his advice.

#### FINDINGS

1. The City of Rochester did not conduct good faith negotiations with the exclusive representative as required under RSA 273-A in that it did fail to meet at reasonable times for the purpose of negotiations as evidenced by the chronology set forth in the charges.
2. Attorney Fisher as Counsel for the City did in fact know that SEA was the duly certified representative of the employees of the Rochester Police Department as a result of the election held in accordance with N. H. Statute, RSA 273-A. Further, that Counsel advised his client, the City of Rochester, to violate 273-A in advising them not to conduct good faith negotiations knowing full well that such negotiations must be conducted until such time as a unit is decertified.

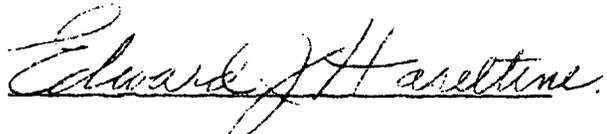
3. The action of the City in refusing to negotiate with the exclusive representative constitutes an unfair labor practice as charged.

ORDER

The Board issues the following order:

A. Having found unfair labor practices against the City of Rochester, the Board orders the City of Rochester to conduct good faith negotiations with the exclusive representative of the Rochester Police Department, forthwith and without further delay.

B. Evidence of compliance to this order to be submitted to PELRB by both parties within fifteen days (15) or no later than December 6, 1978.



EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 21st day of November, 1978

By unanimous vote of the Board. Present Chairman Edward J. Haseltine, Members Richard H. Cummings, Edward L. Allman and Joseph B. Moriarty. Also present, Board Clerk, Evelyn C. LeBrun.