

1/17/79 ULP

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

COLEBROOK EDUCATION ASSOCIATION,
Affiliated with NHEA/NEA

Complainant :

CASE NO. T-0219:1

and :

DECISION NO. 780055

COLEBROOK SCHOOL BOARD

Respondent :

APPEARANCES

Representing the Education Association:

John Fessenden, UniServ Director, NHEA/NEA
James Hobson, UniServ Director, NHEA/NEA
Marion Godzyp, Teacher
Joan Walsh, Teacher
Maureen DeSantis, Teacher

Representing the School Board:

Bradley F. Kidder, Esquire, Counsel
Stephen E. Dehl, Superintendent
Holman E. Forbes, Chairman

BACKGROUND

On November 13, 1978, the Colebrook Education Association through its representative, John Fessenden, UniServ Director, NHEA/NEA, filed improper practice charges against the Colebrook School Board for violation of RSA 273-A:5 (g), (h) and (i), in that the Board had advised individual members of the bargaining unit that they would not follow the signed contract negotiated between the parties.

A hearing on the charge was held in the Board's office on December 13, 1978 attended by representatives from both parties.

Oral and written evidence was presented by both parties.

FINDINGS OF FACT

1. A collective bargaining agreement does exist between the parties, duly executed on April 17, 1978 and to remain in effect until August 31, 1980.

2. Said agreement contains an article on personal days which provides for three (3) personal days per year, non-accumulative, Article XI - Leaves, Section B. Requests for paid personal leaves to be made to the building principal, in writing, sufficiently in advance so that proper provision can be made for the applicant's absence and requests to contain the reason for the desired leave.
3. Maureen DeSantis did on October 5, 1978 write to Superintendent Dehl advising him that she would be absent on October 27, 1978 and stating her reason for the absence.
4. When advised by Superintendent Dehl that she could be absent but only on a no-pay status, Miss DeSantis requested to take the day as a personal day in accordance with the existing contract.
5. Superintendent Dehl on November 10, 1978 replied to Miss DeSantis' October 18th letter by permitting her the leave only on a no-pay status and further stated that the School Board's position was that "there is no collective bargaining agreement in effect."
6. The legislative body, the voters, at the April 17, 1978 School District meeting did defeat Article 6 relative to cost item expenses agreed upon through negotiations and postponed until June 26, 1978 another meeting to reconsider Article 6 of the warrant and the voters on that date cast their votes against reconsideration.
7. Since that time several attempts have been made by the School Board to reopen negotiations but the Association has repeatedly refused to sit down to reopen negotiations on the entire agreement.
8. The agreement prevails: The N. H. law appears unique in that it makes it a prohibited practice for any public employer "to make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement entered into by the public employer making or adopting such law, regulation or rule."
9. The parties are bound to their decisions about the bargaining issues by a written agreement. The negotiations which culminate in a written agreement are important as the resulting contract sets up rules and responsibilities which are binding on the employees and management for the future until another agreement is negotiated.

Mistakes cannot be erased during the life of the agreement unless both parties agree to make alterations. The duration of many collective bargaining contracts in the public sector are two years which means that successful employee-employer relations on a day-to-day basis may be jeopardized during that time by ineffective collective bargaining.
10. RSA 273-A:8 (b) refers to cost items but does not nullify an entire agreement by the rejection of the monetary items by the legislative body. Section 8(b) addresses the situation prior to

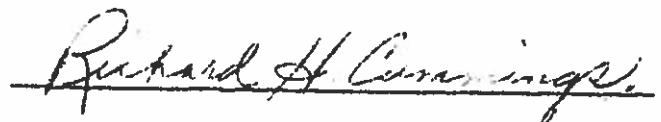
ratification of the contract; reopening of an entire agreement could only create unrest contrary to the legislative intent to foster harmonious relationship between public employees and employers.

DECISION AND ORDER

After consideration of all the evidence presented at the hearing, the Board issued an oral decision on December 13, 1978, that the contract was in effect and the parties were to return to the table to discuss the monetary aspects of the agreement.

The Public Employee Labor Relations Board rules, as follows:

- A. The collective bargaining agreement by and between the Colebrook School Board and the Colebrook Education Association, NHEA/NEA is in full force and effect from September 1, 1977 until August 31, 1980.
- B. All articles or sections are in force until negotiated out through the negotiation process.
- C. The parties are ordered to sit down and negotiate the monetary aspects of the agreement for the contract year 1978-79.



RICHARD H. CUMMINGS, ACTING CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 17th day of January, 1979

By unanimous vote: Richard H. Cummings presiding, Members Anderson and Moriarty present and voting. Also present Board Clerk, Evelyn C. LeBrun