

STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MANCHESTER FIREFIGHTERS' ASSOCIATION, LOCAL 856, IAFF	:	
	:	
v.	:	CASE NO. F-0104:5
	:	
CITY OF MANCHESTER	:	DECISION NO. 79030
	:	

APPEARANCES

Representing the Manchester Firefighters' Association:

Vincent A. Wenners, Esquire  
Ronald Philibert, President, Local 856  
Thomas Houghton, N. H. IAFF President

Representing the City of Manchester:

Charles Flower, Esquire  
Wilbur L. Jenkins, Personnel Director  
John Lydon, Chief

WITNESSES: Ronald Philibert, President, Local 856  
George Young, District Chief  
John Lydon, Chief

BACKGROUND

On November 21, 1978 PELRB issued its decision No. 780044, Case No. F-0104:4 in which it found no unfair labor practice against the City of Manchester as alleged by Local 856, International Association of Firefighters, AFL-CIO. Subsequently, Local 856 requested a rehearing and requested permission to amend their complaint of unfair labor practices. Request was granted.

In its amended complaint Local 856 charged the City with changing the number of district chiefs assigned to certain units and that certain overtime pay had not been paid which had customarily been paid after the new contract had been negotiated and signed by the parties. This change the Union charged was a retaliatory measure designed to frustrate the collective bargaining process in violation of 273-A:5 I (h).

The Union by its counsel Attorney Wenners argued that it had been the custom of the City for many years to assign two district chiefs to each shift and the City had unilaterally changed this procedure to assign only one district chief to each shift. Further, this action constituted a unilateral change in the conditions of employment and that such action was a retaliatory measure taken as a result of the job action (strike) preceeding the signing of the contract.

The City by its counsel Attorney Flower argued that the assignment of personnel within the department was strictly an administrative matter and was up to the chief.

Testimony was heard from several witnesses for both sides regarding past practices, present assignments, safety aspects of assignments, hardships created by such action on firefighting crews etc.

Evidence presented indicated that certain changes in assignments were made because in some instances certain district chiefs were out on extended sick leaves. Because of this, various action had to be taken to preserve the integrity of firefighting crews. In certain instances overtime had been paid and in others compensatory time had been given.

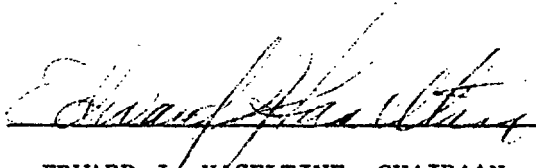
After hearing all the testimony and evidence in the case, the Board makes the following findings and order.

FINDINGS

1. The City of Manchester and its chief within its managerial rights, can assign its personnel.
2. The Union failed to factually prove that the assignment action taken was in retaliation for their job action. The only evidence presented in support of this charge was inferential only and not persuasive.

ORDER

- A. This Board reaffirms its order No. 780044.
- B. The unfair labor practice charge filed by Local 856 against the City of Manchester is hereby dismissed.

  
EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 12<sup>th</sup> day of October, 1979

Chairman Edward Haseltine presiding. Members present and voting Moriarty and Mayhew. Also present Board Clerk Evelyn C. LeBrun.