



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STATE EMPLOYEES' ASSOCIATION OF NEW
HAMPSHIRE, INC. LOCAL 1984 SERVICE
EMPLOYEES' INTERNATIONAL UNION,
AFL-CIO, CLC

Complainant

v.

TOWN OF DERRY POLICE DEPARTMENT

Respondent

CASE NO. P-0743:1

DECISION NO. 88-71

APPEARANCES

Representing State Employees' Association:

Ward P. Freeman, Field Representative, SEA

Representing Town of Derry:

Gary Wulf, Chief Negotiator

Also appearing:

Edward Garone, Chief of Police
Mal MacIver, Captain
William J. Newman, Sergeant
Roger C. LaPlante, Lieutenant

On March 8, 1988 Ward Freeman of the State Employees' Association on behalf of Sgt. William Newman filed a complaint of an unfair labor practice against the Town of Derry Police Department alleging that the Police Department and the Town of Derry failed to pay him certain monies due him for time spent in attendance at a training course at Babson Institute in Boston, Ma., alleging that such non-payment of monies constitute an unfair labor practice under 273-A:5 I (a), (b) and (d).

BACKGROUND

Hearing in this matter was held in the PELRB office on May 31, 1988 with all parties represented.

In opening statements Freeman for SEA stated that no contract was in existence at the time; that negotiations were ongoing in the summer and fall of '87; and, that attempts to resolve the issue in written memos, never face to face discussion, by the parties responsible for decision making did not resolve the issue.

Wulf for the Town stated that during negotiations the subject of reimbursement for school attendance was never brought up by either party and a question existed on the availability of the grievance procedure.

Sgt. Newman testified on his membership in the supervisory bargaining unit of SEIU, (no contract existed at the time) and his normal schedule of four (4) days on and two (2) days off a week, one short of thirty-two (32) hours for which he was paid for forty (40) hours while he attended a training program at Babson College, Wellsley Ma. from the 14th of September to the 4th of October '87, classes scheduled Monday thru Friday. One of the weeks was his normal short week of thirty-two (32) hours, and he claimed he worked more than forty (40) hours a week because of school requirements, therefore by his calculation, he was entitled to 19½ hours pay. Allegedly the time spent in the Library and the reading of special cases and preparation of a notebook was required to pass the course for his own future personal use.

FINDINGS OF FACT

1. On October 11, 1987 Sgt. Newman filed a letter with Captain MacIver, his patrol department commander, requesting 19½ hours pay to cover his actual work time during the 3 week schooling setting forth his reasons. The request was denied by Captain MacIver on October 15, 1987 after a series of memos and on November 12, 1987 by letter to President Lt. Roger LaPlante, Chief Garone advised that Captain MacIver had addressed the issue and that the time to further address this matter had expired.
2. On November 14, Lt. LaPlante requested a meeting with Sgt. Newman and Town Administrator Buckley in an attempt to resolve the issue. On November 24, 1987, the Town Administrator advised Lt. LaPlante that the matter (denial) had been properly resolved by the Chief and Captain MacIver.
3. On December 2, 1987, Freeman of SEA again requested a hearing with the Town Administrator and made reference to the utilization of the grievance procedure in an expired contract for patrol officer. Past practice was discussed along with the utilization of the patrolmen's grievance procedure by supervisors.
4. Sgt. Newman spent 104.5 hours in class and an average of thirty-five (35) hours outside study work for an average of 139.5 hours.
5. Lt. Roger LaPlante, an officer of the union, knew of Sgt. Newman's claim and was aware of the memos exchanged. He wanted to file a grievance with the Chief, but was advised that there was no grievance procedure in effect and to write to the Chief. All resulted in denial of the requested payment for the additional 19½ hours. Wulf for the Town denied the unfair labor practice that the Town's treatment of Sgt. Newman was in accordance with past practice.

6. Classroom hours differ from regularly scheduled police work and officers selected for training should be willing to work the extra hours to complete the training.

DECISION AND ORDER

After considering the testimony of the witnesses, the schedules and written documents, the Board finds and ORDERS:

- A - No grievance procedure existed at the filing of the alleged unfair labor practice and utilization of contract language was non existent.
- B - Attendance of special training schedules such as Babson frequently requires time involved outside the classroom, such as library research and reading.
- C - Sgt. Newman prior to accepting assignment to Babson was aware of the scheduling process and time involved.
- D - Sgt. Newman's attempt to resolve the issue with his supervisors was proper and resulted in denial of the additional pay.
- E - The subject of pay and reimbursements for attendance at special training programs such as offered by Babson Institute should be the subject of negotiations between the parties.
- F - The schedule of hours submitted by Sgt. Newman for necessary outside studies are requirements for any special training program.

Based on the findings, this Board hereby DISMISSES the unfair labor practice.

Signed this 3rd day of November, 1988.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members James C. Anderson, Richard W. Roulx and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun.