



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

STRATFORD EDUCATION ASSOCIATION,
NEA-NEW HAMPSHIRE

Petitioner

v.

STRATFORD SCHOOL DISTRICT

Respondent

CASE NO. T-0368:3

DECISION NO. 89-35

APPEARANCES

Representing Stratford Education Association, NEA/New Hampshire

John Fessenden, UniServ Director

Kathy Roth, Teachers Association

Patricia Dubreuil, Teachers Association

Representing Stratford School Board

Jay Boynton, Esq.

Warren Bouchard, Superintendent of Schools

THE ISSUE

The Education Association takes exception to the School Board's unwillingness to meet with the negotiating team subsequent to a factfinder's report being issued and prior to the presentation of the factfinder's report to the legislative body as required by 273-A:12-11. In this case the Board had rejected the factfinder's report and recommendation; the Association had accepted the factfinder's report. At the opening of the hearing both parties had agreed to meet the evening of the hearing, making the question somewhat moot, however the Association wanted the matter heard for guidance in future cases.

Hearing in the matter was held on September 22, 1988 by PELRB Hearing Officer, Edward J. Haseltine and Evelyn C. LeBrun, Executive Director at the Superintendent's Office, Groveton, N.H.

Fessenden for the Association stated that the following question at some point must be resolved by the PELRB: Question "Whether or not after a factfinder's report is issued and before a special or regular school district meeting, the parties are obligated to get together if one side or the other rejects the report?"

Atty. Boynton for the Board questioned the short notice of the hearing, and raised the issue of a hearing officer hearing the case. Further, the nature of

this decision he felt required a full PELRB hearing, and stated that the law is very clear; the parties having bargained to impasse, must follow the proscribed procedures; mediation, factfinding, factfinder's report submitted to the negotiating team and then to the respective parties, then rejections by one of the parties, then to the voters. Atty. Boynton referred to 273-A:12:IV, which states "If impasse is not resolved following the action of the legislative body, negotiations shall be reopened."

Boynton charged the Association with asking for mandatory return to table before the legal process was completed and further suggested the process wisely seemed to provide a cooling-off period as feelings often run high and lastly, stated the law is very clear and there is no requirement to return to table until after submission to legislative body.

Fessenden argued the law is clear in its intent "to foster harmonious relationship between the parties" and he did not know the specifics of the Board's disagreement with the factfinder's report, but it was the Association's decision to try to work things out before submission to the legislative body.

Testimony from both parties indicated the number of negotiating meetings held and the procedure followed: impasse, mediation, factfinding and attempts by the Association to meet with the School Board.

In this instant case it was necessary to call a special School District meeting at some point in time for presentation of the factfinder's report as the report was completed subsequent to the regular annual School District meeting. Fessenden referred to his several attempts with Superintendent Bouchard to meet with the School Board for more negotiations in an attempt to resolve the issues prior to submission of the report to the legislative body, Fessenden's attempts met with mixed reactions from "maybe" to a firm refusal stating as their basis, compliance with statutory requirement of dealing with a factfinder's report.

Upon review of all testimony and written submission offered, the following findings are made and decision recommended:


1. The Stratford Teachers Association and the Stratford School Board by their respective representatives did bargain harmoniously and in good faith.
2. During negotiations impasse developed over issues which by statute must be submitted to the legislative body.
3. Mediation and subsequent factfinding took place, with the Association accepting the factfinder's report and the School Board rejecting the report, this resulted in the necessity for a special School District meeting.
4. Several attempts by the Association, through Superintendent Bouchard, to meet with the School Board were rejected. The reason for the rejections are not required until legislature body had completed its action.
5. The Association wanted a decision that a requirement exists for parties being ordered to negotiate pending resolution of the factfinder's report by the legislation body.
6. RSA 273-A:12, I, II, III, IV, V is very clear in specifics as to the required disposition of impasse; 273-A:12 V states in part "Nothing in this Chapter shall be construed to prohibit the parties from providing

for such lawful procedures for resolving impasses as the parties may agree upon providing that no such procedures shall bind the legislature body on matters regarding cost items" and is silent as to any mandatory requirement for the parties to negotiate subsequent to the factfinder's report and its submission to the legislative body.

DECISION

PELRB cannot force the parties to the negotiating table pending resolution of impasse as required by statute. RSA 273-A is clear in its intent with respect to such matters.

Having stated as above, it is the opinion of the hearing officer, that the intent of 273:A "to create harmonious labor relations between employers and employees," the negotiating parties should make every good faith, prudent effort to seek resolution of the issues prior to any annual or special meeting of the legislative body.


EDWARD J. HASELTINE, Hearing Officer
for PELRB

Signed this 3rd day of May, 1989.