



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MANCHESTER TRANSIT UNION LOCAL 717	:	
	:	
	:	
Petitioner	:	
	:	CASE NO. M-0596:2
v.	:	
	:	DECISION NO. 89-36
MANCHESTER TRANSIT AUTHORITY	:	
	:	
	:	
Respondent	:	
	:	
	:	

#### APPEARANCES

##### Representing Manchester Transit Union Local 717

Thomas Birmingham, Esq.  
Sue T. Soumbands

##### Representing Manchester Transit Authority

Robert Christy, Esq.  
Thomas Tessier, Esq.  
Richard Pollock, Manager  
Dr. Eugene Ross, Supt. of Schools (witness)

#### BACKGROUND

On February 1, 1989, Thomas F. Birmingham, Attorney for Amalgamated Transit Union, Local 717, filed motion for rehearing of PELRB order and decision of 19 January, 1989, No. 88-87, Case No. M-0596:1. The request for rehearing granted and hearing held at PELRB office, Concord, NH, March 20, 1989.

PELRB decision 88-87 ordered the parties to refrain from pursuing interest arbitration under the 13-C Agreement and further ordered the parties to attempt to resolve outstanding issues. If unsuccessful, however, to proceed under 273-A:12 and rules of the Board.

The issue in this case arose when Local 717 petitioned this Board for certification as a Bargaining Unit under 273-A. Prior to this petition, the parties had negotiated contracts outside the umbrella of 273-A. Only when a dissident group of union employees petitioned for a bargaining unit of part-time school bus drivers did Local 717 agree to come under 273-A, by an election conducted July 13, 1988. The result of which Local 717 became the certified exclusive representative of the bargaining unit.

(2)

At the March 20th hearing, Attorney Birmingham requested reconsideration and offered argument regarding the Local's right to pursue interest arbitration under paragraph 13-C of an UMPTA relating to federal funds for the Transit Authority. The issue of the 13-C agreement had been fully explored at the original hearing. Several letters between the Transit Authority (City) and the Federal Funding Agency, were offered in evidence in attempting to show that the Authority had willingly participated in the recognition of 13-C requirement.

Attorney Birmingham again questioned PELRB's authority with specific reference to its involvement with the 13-C requirements which states the City must have a working interest arbitration procedure in order to receive federal funding.

PELRB had found Local 717 did not have a right to pursue interest arbitration and further, the Board held that since coming under 273-A, the process proscribed in 273-A for settling disputes took precedence over any 13-C agreement, i.e., mediator, factfinding and arbitration as might be negotiated between the parties. Birmingham argues that the parties, over the preceding years, had not made any attempts to alter the terms of 13-C, cited the Portsmouth case (which has very little relevance in the instant case) and further questions PELRB's authority in the matter.

The Authority by its Counsel, Attorney Tessier, indicated they would not re-argue the case.

Testimony of the Authority Manager, regards present negotiations, use of part-time drivers, operation of school bus schedules.

Testimony of Dr. Eugene Ross, Superintendent of Schools, testified regarding the source and expenditures of funds by school bus transportation; that the School Board had at one time, authorized the solicitation of bids from private firms for school transportation. Certain matters in this case regarding the bargaining unit are now before the New Hampshire Supreme Court.

#### DECISION

The Board reaffirms its original decision of February 22, 1989, No. 88-87.

Dated this 11th day of May, 1989.

  
Edward J. Haseltine, Chairman

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