



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SALEM ASSOCIATION OF FOOD SERVICE
PERSONNEL

Petitioner

v.

PAUL O. JOHNSON, SUPERINTENDENT OF
SCHOOLS, S.A.U. #57

Respondent

CASE NO. M-0580:4

DECISION NO. 90-03

APPEARANCES

Representing Salem Association of Food Service Personnel:

Gregory Andruschkevich, UniServ Director NEA

Representing Paul O. Johnson, Superintendent:

Robert Leslie, Esq., Counsel

Also appearing:

Paul O. Johnson, Superintendent of Schools
Linda MacDonald, Salem School District
Owen P. Conway, Salem School District
Patricia M. Parent, Salem Association of Food Service

BACKGROUND

On June 23, 1989 the Salem Association of Food Service Personnel represented by Gregory Andruschkevich, UniServ Director, NEA, New Hampshire filed an unfair labor practice charge against certain named representative of the Superintendent of Schools, SAU #57 of Salem, N.H. alleging that (1) the Director of Personnel and the Assistant Superintendent called and held a meeting with employees of the bargaining unit for the purpose of discussing terms and conditions of employment for the 1989-90 school year; specifically, the employees would either have to submit to a reduction in hours worked by 30 minutes resulting in a reduction in wages or, (2) the District would have to reduce the work force by layoffs. They allege that by bypassing the exclusive representative and ignoring its collective bargaining responsibilities, the District violated RSA 273-A:5 I (a), (b), (c), (g), (h) and (i) by threatening and intimidating the Food Service employees.

The District thru its Counsel and Superintendent stated that a meeting was held on June 12, 1989 to discuss alternatives which the employees could consider to enable the District to continue with the self-supporting lunch program. Further, that a reduction in cost could be achieved by either employing fewer people or cutting the workday by thirty (30) minutes. The meeting afforded the employees an opportunity to participate in discussions and to voice their preference on how best this could be achieved. The District denied any violation of any portion of the agreement or their responsibilities.

Hearing in this matter was conducted on September 21, 1989 at the PELRB office in Concord, New Hampshire.

In opening statements the Association stated the issue was simple and straightforward; the employer by talking directly to employees rather than the exclusive representative on matter of working conditions, i.e., hours of work and reduction in force is a violation of RSA 273-A.

The School District by its counsel Robert Leslie, Esq., explained the requirement of the lunch program to be self-supporting and that the District felt the employees might have some thoughts on how to cut expenses, and that management had the right to RIF in accordance with managements rights clause. The meeting was held but they received no input and instead they were charged with an unfair labor practice.

Witness Pat Parent, President of the Association, testified regarding the meeting held on June 12th: (a)her discussion with Food Service Director, (b)the fact that the employees were paid for attendance at the meeting, (c)the concerns raised by the membership as to their continued employment, layoffs, and contract provisions and the method of layoffs if by seniority, etc.

Witness Business Administrator Linda MacDonald testified as to the self-sustaining requirement of the program and actions taken to raise meal prices which did make up the projected deficit; the shortfalls in the program for several years and further that the District could have reduced staff but chose not to do so after raising the meal prices.

In summation Atty. Leslie for the District stated if the District wanted to make a unilateral decision, it could have done so by a reduction in force. It however, chose to involve the employees who would be affected.

The Association in summation stated that to go and talk to employees about mandatory subjects of bargaining is not proper.

FINDINGS OF FACT

After reviewing all submissions, oral and written, PELRB makes the following findings of fact and substitute its own findings for the parties requests.

1. The District has a right to determine the method and staffing of its program and to make the Food Service program self-supporting financially.

2. Management has a right to reduce its work force and working hours.
3. The Salem Association of Food Service Personnel is the certified bargaining unit and was so certified on September 9, 1986.
4. A collective bargaining agreement is currently in effect for 1987 thru June 30, 1990.
5. The agreement deals with a reduction in force and layoff in Article IX, Section 6 and states it shall be by seniority.
6. Article VII deals with work schedules.
7. RSA 273-A:3 I requires the parties to bargain with the exclusive representative of bargaining unit over terms and conditions of employment.
8. PELRB has consistently ruled that the Public Employer may not deal directly with the employees of a certified bargaining unit regarding subjects of bargaining.
9. PELRB finds in this case the public employer did in fact call a meeting of members of the certified bargaining unit employees and did discuss hours and conditions of employment bypassing the exclusive representatives in violation of 273-A.

ORDER

PELRB finds the Salem School District guilty of unfair labor practice and ORDERS the District to meet with the exclusive representative of the certified bargaining unit concerning work schedules in accordance with the language of the agreement.

Signed this 10th day of January, 1990.


EDWARD J. HASELTINE
Hearing Officer

By unanimous vote Edward J. Haseltine, Chairman and members Seymour Osman and Richard E. Molan, Esq. Also Evelyn C. LeBrun, Executive Director.