



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

RYE BOARD OF SELECTMEN

Petitioner

v.

RYE TOWN EMPLOYEES' ASSOCIATION
affiliated with Teamsters Local 633
a/w International Brotherhood of
Teamsters, Chauffers, Warehousemen
and Helpers of America

Respondent

CASE NO. M-0594:3

DECISION NO. 90-25

APPEARANCES

Representing Rye Board of Selectmen:

Robert Tawney, Chief Negotiator

Representing Rye Town Employees' Association:

Thomas D. Noonan, Business Agent

Also appearing:

John J. Coffey
Jack Tobey
Sarah T. MacGregor
Paul Paradis

BACKGROUND

On July 20, 1989 the Rye Selectmen petitioned PELRB to modify the existing bargaining unit originally certified as the bargaining unit on March 7, 1989, to remove from the Unit the position of Mosquito Control Director on the basis that the position was an independent contractor and provided services to eight other towns in the area and further the position was not under the Town classification plan, was a part-time position, lacked community of interest and further it is an area project rather than a town project.

Representative of the existing unit Teamsters Local 633 takes exception to the request for modification on the basis that the positions was originally included in the bargaining unit by mutual agreement and was incorporated in the recognition agreement in force and expires on December 31, 1989, Article II paragraph 2.01, 2.02 and 2.03 of the contract.

Hearing in this matter was conducted October 12, 1989 before hearing officer Edward J. Haseltine representing PELRB.

The Town position in making the request for modification was presented by Robert Tawney and detailed the arguments offered in support of the petition as stated above. Selectmen Jack Tobey and John J. Coffey offered testimony of their understanding of the positions and its relationship to the several area towns involved in the Mosquito Control area.

Paul Paradis President of the Association, (Rye Town Employees Association affiliated with Local 633 Teamsters) testified as to discussions between the parties concluding removal of the Mosquito Control officer position, during negotiations, no resolution of the issue resulted from discussions.

Sarah MacGregor the incumbent in the position offered testimony about her employment by the Mosquito Control Commission, her duties, reporting to her office in the Rye Town Hall every day before departing for area activities and is paid by check from Town of Rye, all benefits handled by the Town of Rye, the fact that the Town of Rye is reimbursed by the several towns in the Mosquito Control Area for a portion of the positions salary and benefits, her meetings are generally held in the Rye Town offices, Rye's contributions to the Mosquito Control project is substantially greater than the other participating towns, supervision given to part-time and temporary employees on the project by the Mosquito Control Officer.

Tawney for the Town stated that frequent communication about removing the position from the bargaining unit took place in the 1988 negotiations with no final resolution.

Local 633 representative Thomas Noonan stated that the Town had made no real attempt to discuss the matter with the Association representatives and further that it should be the subject of negotiations between the parties and cited that director positions are in the unit, (Recreation Director) and the position in question should not be removed from the unit.

FINDINGS OF FACT

Based on all testimony and exhibits submitted the hearing officer finds as follows:

1. The Mosquito Control officer's position was included in the bargaining unit in the original petition for certification dated November 23, 1987 by mutual agreement.
2. Testimony offered indicated a community of interest with others in the bargaining unit.
3. The position is quartered in the Rye Town Hall which serves as the focal point for area Mosquito Control activities.
4. Pay checks and benefit payments are made to the incumbent by the Town of Rye, other towns participate in the Mosquito Control area and contribute a share of salary and benefits.

5. The incumbent reports to the Town Hall to start the days and ends the day at the Rye Town Hall.
6. The position incumbent attends Department Head Meetings and submits hours of work to bookkeeper, other part-time employees on the project are paid by check from the Town of Rye and in some cases directly by the area Towns involved in the project.

ORDER

Based on the above findings, the petition to modify the existing bargaining unit by excluding the position of Mosquito Control Officer is DENIED, this recommendation is made to the PELRB.


EDWARD J. HASELTINE
Chairman

Signed this 5th day of April, 1990.