



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

TOWN OF SALEM :

Petitioner :

v. :

CASE NO. P-0715:16

SALEM NEW HAMPSHIRE POLICE :  
RELIEF :

DECISION NO. 90-41

Respondent :

#### PETITION FOR DECLARATORY JUDGMENT

Responding to a petition for Declaratory Judgment, PELRB rules as follows:

1. The Board recognizes certain of its prior decisions, more specifically the Claremont School Board decision no. 86-25.
2. PELRB recognizes that the negotiations are presently at impasse in their negotiations for a successor agreement.
3. The current agreement states as follows in Article 30.1, it is mutually agreed that the terms of this agreement shall be in effect for the period of April 1, 1989 to March 31, 1989. The terms and conditions of this agreement shall remain in effect until a successor agreement is executed.
4. Article 10.6 of the agreement states as follows: "An employee shall report for duty 15 minutes prior to the start of their shift. This provision shall last only during the term of this contract and the 15 minute reporting time shall lapse as of April 1, 1989, unless renegotiated by the Town and the unit." The required negotiations of this issue has not taken place.
5. The Board recognizes paragraph 30.4 of the existing contract with respect to recall for certain duty assignments of police officers; "RECALL: In the event an employee, who has completed his assigned duty and has left the police station, is recalled to duty other than outside detail, he shall be guaranteed a minimum of three (3) hours pay at the time and one-half (1½) rate. The minimum shall be guaranteed for call backs, call ins, or early calls"...(See Article 30.4).

6. The agreement states that the police officers shall be paid at the rate of time and a half for the 15 minutes of reporting time that they are required to work prior to the start of their shift. However, this provision of the contract no longer prevails as it was negotiated to be terminated on April 1, 1989 see paragraph 10.6 of the C.B.A.
7. If police officers are required to report at anytime other than the normal shift, the continuance of the contract provision mandates that they be recalled under the article 10.4.
8. The advice of the Town on May 4th to the Union that all terms of the expired agreement were to continue in effect until a successor agreement has been concluded including the provisions that officers were to report prior to the start of their shift is not substantiated by article 10.6 of the CBA which indicates that such reporting time shall cease to be operative as of April 1, 1989. This provision of the continuing contract cannot be interpreted to include the continuation of Article 10.6 in view of the negotiated language dealing with Article 10.6. The Town cannot unilaterally without negotiations continue the language Article 10.6.
9. Any officer who is recalled within the continuing terms of the contract, particularly paragraph 10.4 shall be treated accordingly.
10. The Town was within its right in discontinuing the early reporting time as of May 14th. As the requirement for pay under early reporting paragraph of 10.4 was no longer operative within the terms of the agreement until the subject is negotiated by the parties.
11. The Union filing of a grievance seeking backpay for 4½ hours for each 15 minutes of reporting time work for all members of the bargaining unit for the period of April 1, 1989 to May 13th cannot be considered a valid grievance in view of the negotiated agreement referenced in article 10.6 report time.

In responding to the request for relief the PELRB declares that the current agreement and all of its terms continue to be operational pending the negotiation of a successor agreement in accordance with article 30.1 of the agreement with the exception of article 10.6 which refers specifically to the eliminating of the reporting time which had been mutually negotiated by the parties.

If the Salem Police Officers are ordered to report under any set of circumstances prior to the normal work schedule, they must be considered recalled to duty in accordance with article 10.4 and are entitled to pay accordingly.

ORDER

This decision is responsive to the request of the parties of the Declaratory Judgment and responds in all aspects to the request submitted by council for the Police Relief Association.

The objections to the petition for Declaratory Judgment filed by Counsel for the Salem Police Relief Association is denied.

Signed this 6th day of June, 1990.

  
EDWARD J. HASELTINE  
Chairman