



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

MASCOMA VALLEY REGIONAL SCHOOL BUS  
DRIVERS

Complainant

v.

JOHN FESSENDEN, UNISERV DIRECTOR, NEA-  
NEW HAMPSHIRE

Respondent

CASE NO. T-0367:2

DECISION NO. 90-44

#### APPEARANCES

##### Representing Mascoma Valley Regional School Bus Drivers:

June L. Burrington, Support Staff  
Scott L. Johnston, Support Staff

##### Representing John Fessenden, UniServ Director NEA-NH:

James Allmendinger, Esq., Counsel

##### Also appearing:

John Fessenden, UniServ Director NEA-NH  
James H. Vezina, School District  
Deborah P. Hazelton, Support Staff  
Peggy A. Vincent, Support Staff  
Frederick Grochock, Support Staff  
Malcolm E. Brown, Support Staff

#### BACKGROUND

On April 6, 1989 Mascoma Valley School Bus Drivers represented by June Bassett Burrington filed an unfair labor practice charge against John Fessenden, UniServ Director, NEA-New Hampshire as follows: "John Fessenden, UniServ Director, NEA-NH refuses to negotiate for the Bus Drivers of Mascoma Regional School District, S.A.U. #62 which we are part of and certified under the Mascoma Valley Regional Support Staff MVREA/NEA New Hampshire in violation of RSA 273-A by discriminating against the Bus Drivers because of membership and has failed to allow us equal participation in the negotiations." The remedy requested either decertification of unit or removal of School Bus Drivers from the certified unit, also removal of John Fessenden as representative in negotiations.

In response counsel for NEA-NH representing John Fessenden states as follows:

- a. Fessenden denies charges of discrimination.
- b. At no time failed to bargain in good faith.
- c. The charges are vague and do not refer to any specific statutory violations.

After many postponements, the case was heard on May 14, 1990 at the P.E.L.R.B. office in Concord, New Hampshire.

June Burrington testified that she represented a group of the Bus Drivers who were not members of the union but members of the bargaining unit who were not given consideration and had received no raise for the current contract during negotiations by the union president and the UniServ Director. Further, that Fessenden had stated that they were not entitled to representation as they were not dues paying members of the support staff MVRSS/NEA-NH.

Counsel for Fessenden in questioning the complainant elicited the following:

- a. Opportunity had been given Burrington and one Scott Johnston, another bus driver to discuss negotiations with the committee and they did in fact attend one or two meetings of the negotiating committee as observers.
- b. The Mascoma Valley Bus Drivers were the 2nd highest paid Bus Drivers in the state.
- c. That approximately ten (10) or twelve (12) Bus Drivers voted in the certification election.

Witness Fessenden disavowed the dues statement of Burrington and further did state that only dues paying members could sit on the negotiating committee which could have been misinterpreted and further that the negotiations on behalf of the support staff did not recommend an increase for the bus drivers as they were the second highest paid in the state and further that the objectives of the negotiating committee was to negotiate an increase for some of the lower paid members in the support staff, i.e., food service employees, custodians, etc....

Witness Fred Grochock president of the support staff supported Fessenden's testimony and agreed as a member of the negotiating committee with the committee's objective.

#### FINDINGS OF FACT

After hearing all the testimony presented, oral and written, the Board finds as follows:

1. The Bus Drivers' are members of the certified bargaining unit.

2. The negotiating committee did provide ample opportunity for Bus Drivers to have input into negotiations whether members of the union or not.
3. The allegation regarding the statement by Fessenden of not representing the Bus Drivers unless they were dues paying members was not in any way supported by the evidence.
4. John Fessenden a UniServ Director did, along with the union president gave adequate and equal opportunity to all members for input into the negotiating committee's objectives, this conclusion was supported by all witnesses.
5. The negotiating committee's position and objective had been made known to all Bus Drivers. Even though some disagreed with the objective and position, the majority must prevail.

ORDER

The charges by complainant June Burrington et.al. against John Fessenden is hereby DISMISSED.

Signed this 7th day of June, 1990.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and Richard E. Molan, present and voting. Also present, Executive Director, Evelyn C. LeBrun.