



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME LOCAL 298 PUBLIC BUILDING  
SERVICES EMPLOYEES

Complainant

v.

PUBLIC BUILDING SERVICES DEPARTMENT,  
RICHARD HOULE, DIRECTOR

Respondent

CASE NO. A-0435:19

DECISION NO. 90-47

#### APPEARANCES

Representing AFSCME, Local 298 Public Building Services Employees:

James C. Anderson, Staff Representative

Representing Public Building Services Department, Richard Houle, Director:

David Hodgen, Chief Negotiator

Also appearing:

Richard Houle  
Robert A. Pollock  
Brian Mitchell  
Richard Welch

#### BACKGROUND

On August 15, 1989 Local 298 of AFSCME filed improper practice charge against the City of Manchester and the Public Building Services Department, Richard Houle, Director specifically. Summation of the charge indicates that the city had violated RSA 273-A:5, (c), (e), (g), (h) and (i) as follows; that they had in fact made some changes in working conditions by adopting a custodial procedure involving custodians absences and the filling of vacancies caused by such absence. The city had adopted a procedure was entitled "Custodial Shortage Procedure."

Hearing in this case was held on May 31, 1990 at the PELRB office in Concord, New Hampshire.

The beginning of the hearing the chief negotiator for the City of Manchester David Hodgen moved that the case be dismissed on the basis that it was a matter of contract interpretation and should be handled in a normal grievance procedure. Motion was accepted but ruling denied pending further evidence to be offered.

James Anderson representing Local 298 indicated that they had become aware of the procedural change in March and they had advised Mr. Houle Director of the department that the subject matter should be negotiated. Testimony indicated that AFSCME representative had discussed this matter with several members of the custodial department and with their supervisory staff. Further testified that the custodial shortage procedure had been developed by management and indicated should not have adopted this procedure unilaterally.

Hodgen for the city made specific reference to the existing contract language in which management's rights were enumerated and contended that the development of the procedure and its adoption and operation fell within management's rights and if there was a disagreement as to contract interpretation that the matter should be handled in accordance with the language of the contract by grieving the issue. The contract language as follows;

"It shall be the right of the Union, however,  
to present and process grievances of its  
members whose wages, working conditions or  
status of employment are changed as a result  
of Management's exercising the above mentioned  
rights, whenever such grievances exist."

the parties at hearing indicated that the issue had been grieved and was in the process of being concluded, but had not reached the final grievance stage. Without hearing further testimony in the case the board moved and unanimously adopted a decision to grant the city's request for dismissal of the charges as the administrative process (grievance) had not run its course in accordance with the C.B.A.

ORDER

In accordance with the above vote, this case is hereby DISMISSED.

Signed this 6th day of June, 1990.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard E. Molan, Esq. and Seymour Osman present and voting.