

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PROFESSIONAL FIRE FIGHTERS OF NORTH HAMPTON, LOCAL 3211, I.A.F.F.

Complainant

CASE NO. F-0140:1

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DECISION NO. 92-160

TOWN OF NORTH HAMPTON

:

Respondent

APPEARANCES

Representing Professional Fire Fighters of North Hampton:

Glenn R. Milner, Esq., Counsel

Representing Town of North Hampton:

Robert Tawney, Consultant

Also appearing:

Jeff B. Brown, Local 3211 R. O'Connor, Local 3211 Mary B. Herbert, Town of North Hampton

BACKGROUND

On December 12, 1991, the Professional Fire Fighters of North Hampton, Local 3211 IAFF (Union) filed unfair labor practice (ULP) charges against the Town of North Hampton (Town) alleging that the Town had refused to bargain in good faith and thereby violated RSA 273-A:5 I (a), (b), (c), (e) and (g). The Town filed its answer on December 26, 1991, denying the allegations. The case was heard by the PELRB on April 2, 1992 with Decision No. 92-69 (which dismissed the charges) issuing on April 9, 1992. The Union filed a Motion for Rehearing on April 21, 1992. The Town filed objections to rehearing on May 7, 1992. On June 11, 1992 the PELRB granted the Motion for Rehearing. (Decision No. 92-103) The Rehearing was conducted before the PELRB on July 30, 1992 resulting in this decision.

FINDINGS OF FACT

- Findings numbered 1 through 6, inclusive, in the PELRB's decision of April 9, 1992 (Decision No. 92-69) are reaffirmed and incorporated herein by reference.
- 2. Paragraph 2 of the "Decision and Order" in Decision No. 92-69 addresses the parties' on-going obligation to negotiate non-cost items.
- 3. There is no evidence that the Union made overtures to the Town of its desire to bargain between the time it was certified as the exclusive bargaining agent and October 3rd, which is one hundred twenty (120) days prior to the budget submission date.
- 4. Certification petitions, notices of hearings before the PELRB, PELRB orders of election, PELRB notices of pre-election conferences and PELRB Certifications of Bargaining Agents and Orders to Negotiate are all documents associated with the organizational process but are not equivalent to the notice of intent to bargain required under RSA 273-A;3 II (a) which must be given by "any party desiring to bargain." (Emphasis added)
- 5. There is no statutory exclusion in RSA 273-A:3 II (b) exempting the one hundred twenty (120) day notice requirement for new or "first time" bargaining units and the public employers with whom they will be negotiating.

DECISION AND ORDER

Upon affording the parties what they believed was necessary for a "full evidentiary hearing," we remain unconvinced that there was any error in our decision of April 9, 1992 (Decision No. 92-69). An order by the PELRB certifying an exclusive bargaining agent and directing the parties to bargain is not the notice contemplated to be given by "any party desiring to bargain" under RSA 273-A:3 II (a). Our order in Decision No. 92-69 has already addressed the issue of the parties' obligation to bargain about

non-cost items for which the 120 days notice requirement does not apply. Thus, we AFFIRM our findings and Order in Decision No. 92-69, noting that the pending ULP is DISMISSED and that the parties' obligation to bargain non-cost items remains unchanged from what was stated in that document.

So ordered.

Signed this 19th day of October, 1992.

EDWARD J/

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Arthur Blanchette present and voting.