



**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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TEAMSTERS LOCAL 633 :  
: Petitioner :  
: v. :  
: HILLSBOROUGH COUNTY :  
DEPARTMENT OF CORRECTIONS :  
: Respondent :  
:

CASE NO. M-0703:1  
DECISION NO. 95-98

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APPEARANCES

Representing Teamsters Local 633:

Stephen F. Lynch, Esq.

Representing Hillsborough County:

Carolyn Kirby, Esq.

Also appearing:

Thomas D. Noonan, Business Agent, Teamsters Local 633  
David Dionne, Teamsters Local 633  
Michael Dempsey, Teamsters Local 633  
Jim O'Mara, Jr., Hillsborough County  
Richard Roulx, Hillsborough County

BACKGROUND

On July 31, 1995, Teamsters Local 633 of New Hampshire (Union) filed unfair labor practice charges against Hillsborough County (County), pursuant to RSA 273-A:5 I (a), (e) and (i), alleging that the County instituted a unilateral change in working conditions and refused to bargain the matter when they eliminated the providing of meals to supervisors at the County correctional facility. On August 10, 1995, Hillsborough County, responded denying any violation. The matter was heard before the

PELRB on September 21, 1995. Post hearing briefs were accepted from the County on September 21 and from the Union on October 2, 1995.

### FINDINGS OF FACT

1. Hillsborough County, Department of Corrections is a public employer of correctional officers and supervisors employed at the Hillsborough County correctional facility. RSA 273-A:I X.
2. Teamsters Local 633 of New Hampshire is the exclusive bargaining agent for supervisors at the correctional facility pursuant to the bargaining unit certification originally issued on June 14, 1994. Negotiations continue toward an initial collective bargaining agreement (CBA).
3. Richard Roulx, Hillsborough County Business Manager, testified that meals have been provided to correctional officers during their shifts since he joined County employment in 1968.
4. Lieutenant Michael Dempsey is a commander on the 6:30 a.m. to 3 p.m. shift and a Union negotiating team member. He was hired in April, 1986. He testified that he is not allowed to leave the premises at mealtime but must remain on duty carrying his radio as well as leg and arm restraints so that he can respond to emergencies which frequently occur. He was provided with the same meal as was prepared for the inmates until the practice was stopped on August 1, 1995.
5. James O'Mara, Jr., Superintendent of Hillsborough County Department of Corrections since January, 1991, testified that he attended the Hillsborough County Delegation meeting at which it was voted to eliminate providing these "gratuitous" meals to employees as a savings measure. (Union Exhibit No. 1, pages 5 and 6)
6. The County Commissioners met subsequent to the Delegation meeting and issued a directive terminating the provision of meals to employees, including supervisors, as of August 1, 1995. Bargaining unit members must now bring their meals from home or have them delivered at their own expense. Lieutenant

Dempsey stated that the cost is between five dollars (\$5.00) and seven dollars (\$7.00) per meal. Supervisors continue be required to remain on duty on the premises at meal times.

DECISION AND ORDER

The provision of mid-shift meals to supervisors, such as Lieutenant Dempsey, has continued without benefit of contract for at least twenty-seven years. These employer provided meals have become a past practice and a reasonable expectation in the nature of a benefit, a wage term or a condition of employment which cannot be unilaterally eliminated, Alton Teachers Association v. Alton School District, Decision No. 93-79 (June 20, 1993). As such, this practice is subject to the doctrine of maintaining the status quo most recently addressed by the New Hampshire Supreme Court in Appeal of Alton School District, \_\_\_ N.H. \_\_\_ (October 24, 1995).

The elimination of the subject practice of providing meals to supervisors constitutes an unfair labor practice under RSA 273-A:5 I (e). The conditions under which public employees, such as these supervisors, work must endure throughout the collective bargaining process, Id. citing Appeal of Milton, 137 N.H. 240 at 247 (1993). Negotiations are continuing. The County is directed to reinstate the practice of providing mid-shift meals to supervisors at the Hillsborough County correctional facility forthwith. In addition to the remedy of reinstatement, the supervisors are to be made whole.

So ordered.

Signed this 15th day of November, 1995.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members E. Vincent Hall and William Kidder present and voting.