



Whether an arbitrator can bind the City based on the facts of this case considering City of Portsmouth v. Association of Portsmouth Teachers, 134 NH 6242 (1991).

The Union frames this as an enforcement action. The City offers an affirmative defense and seeks to prove that the City acted in good faith and that the arbitrator exceeded his authority. There is no dispute as to the meaning of the arbitrator's award. The dispute centers around whether or not the award can be enforced.

It was stipulated by the parties that the Union will not assert that the City has a cushion of money to pay the award and the City will not present evidence on the City's direct costs associated with patrolmen working outside details.

#### WITNESSES

The Union wishes to present two witnesses and the City wishes to present three witnesses. The Union objects to all City witnesses who would testify that the arbitrator exceeded his authority and that the City acted in good faith including the facts surrounding the adoption of the factfinder's report.

Union witnesses: John Centola, Steward, Local 402, Albert Kane, also of Local 402.

City witnesses: Theodore Mahoney, Chairman of the Board of Police Commissioners, William Burke, former Police Chief, Mike Magnant, Deputy Chief of Police.

#### EVIDENCE

It was agreed that exhibits will be submitted prior to the hearing. The parties shall forward their exhibits no later than five days before the hearing date. Exhibits will be marked and the following exhibit numbers have been reserved for that purpose. It is understood that the Union will object to admittance into evidence of certain exhibits based on the same objections it will raise to City witnesses.

Joint Exhibit No. 1 - CBA July 1, 1995 - June 30, 1998. Marked

Joint Exhibit No. 2 - Grievance Documents

Joint Exhibit No. 3 - Arbitration Award

City Exhibit No. 1 - Letter from Phillips to Wooters

City Exhibit No. 2 - Letter from Cayten to Wooters  
City Exhibit No. 3 - Letter from Wooters to Cayten  
City Exhibit No. 4 - Factfinder's Report  
City Exhibit No. 5 - CBA 1992-1995  
City Exhibit No. 6 - CBA 1989-1992  
City Exhibit No. 7 - Documents submitted for Council approval

TIME REQUIRED AND METHOD OF CLOSING

The parties believe that they can complete this case in three hours. The parties have agreed to submit written briefs in closing.

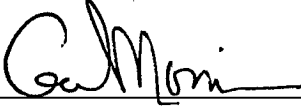
The Union has indicated that presentation of its case will require one hour. The City has agreed to offer three witness so that its presentation should require less than the one and one half hour originally requested.

DECISION AND ORDER

This matter is set forth for a hearing of the above cited dispute to be scheduled on the Board's June docket. The agreements of the parties addressed herein are adopted as they pertain to the hearing.

So ordered.

Signed this 21st day of May, 1999.

  
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Gail C. Morrison  
Hearing Officer