

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Council 93, Local 3657
Milford Police Department

Complainant

v.

Town of Milford

Respondent

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Case No. A-0480-11

Decision No. 2002-020

PRE-HEARING DECISION and ORDER

AFSCME Council 93, Local 3657, on behalf of the certain members of the Milford Police Department, (hereinafter referred to as the "Union") filed an unfair labor practice complaint on September 28, 2001 alleging that the Town of Milford (hereinafter referred to as the "Town"), acting through its employees and agents, including Chief Fred Douglas, has undertaken a course of conduct and taken actions involving the Union's Chief Steward that violate statutory rights granted to the Union and its Steward under RSA 273-A:5 I (a), (b) and (d). It seeks relief in the form of a finding of the commission of an unfair labor practice and the issuance of a Cease and Desist Order from the PELRB. The Union also requests that the Order be publicly posted and that it be reimbursed for all costs and expenses necessary to the pursuit of this complaint.

The Town of Milford filed its Answer in a timely manner on October 12, 2001. In response, the Town denies that any actions of the Town or its Police Chief violated the rights asserted by the Union. While it admits that the Police Chief questioned the motives of the Union Steward and the Steward's level of cooperation with management, it asserts that such actions do not constitute unfair labor practices. For its part, the Town seeks to have the Union Complaint dismissed.

The matter was initially scheduled for a Pre-Hearing Conference on October 26, 2001 and continued until December 7, 2001 on the request of the Town that was

consented to by the Union. Subsequently a joint request for a continuance of the December 7, 2001 Pre-Hearing Conference resulted in rescheduling until January 30, 2002.

PARTICIPATING REPRESENTATIVES

For the Complainant: Angela Wessels, Esquire, Associate General Counsel
Steven Lyons, Staff Representative

For the Respondent: David McGrath, Esquire

ISSUES FOR DETERMINATION BY THE BOARD

The parties agree that the primary issues for consideration by the PELRB are as follows:

1. Whether or not the alleged actions undertaken by the Police Chief constituted interference with the administration of the Union?
2. Whether or not the actions undertaken by the Police Chief constituted discrimination against Officer Michael Funk?

WITNESSES

For the Complainant:

1. Officer Michael Funk
2. Officer Mark Pepler
3. Officer Leonard Mannino
4. Michael Spahr, former Lieutenant

For the Respondent:

1. Lee Mayhew, Town Manager
2. Chief Fred Douglas
3. Captain Winterburn
4. Captain Fortin
5. Sergeant Deware
6. Sergeant Crane
7. Officer Booth
8. Officer Frye
9. Detective Sergeant Shawn Walsh

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

For the Complainant Union:

1. Letter from Town Manager Mayhew to Officer Pepler, dated 10/13/00
2. Letter from Town Manager Mayhew to Officer Mannino, dated 10/30/00
3. E-Mail from Chief Douglas to Officer Funk, dated 3/26/01
4. Letter from Chief Douglas to Officer Funk, dated 3/30/01
5. Memorandum from Officer Funk to Sgt. Crane, dated 8/9/01

For the Respondent City:

1. Letter from Officer Frye to Union, dated 2/8/01
2. Report of Sergeant Deware, dated 7/21/01
3. Investigation Report of Sergeant Crane, dated 7/25/01
4. Memorandum from Officer Funk to Sgt. Crane, dated 8/9/01
5. Grievance Documents (to be identified by counsel and shared)
6. Officers' Daily Log sheet for 7/20/01
7. Mannino letter of resignation, dated 2/12/01
8. Walsh letter of resignation, dated 10/5/99
9. Frye letter of resignation from Union office, dated 2/8/01

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

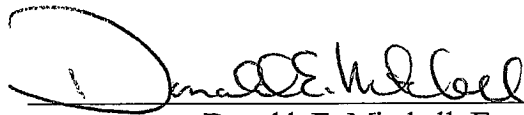
LENGTH OF HEARING

The time being set aside for this hearing is one day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB within fourteen (14) days of the date of this Order.

DECISION

1. The Town's representative shall, within seven (7) days of the date of this Order identify and provide copies of documents constituting the above referenced grievance package.
2. Each party shall share copies of all exhibits listed above with the opposing side.
3. A request by either party for any further continuance in this matter shall be strictly scrutinized by the PELRB.
4. The party representatives shall forward any amendments of their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than five (5) days prior to an evidentiary hearing. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
5. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than ten (10) calendar days prior to the scheduled hearing date.
6. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Tuesday, March 26, 2002 beginning at 9:30 A.M.

Signed this 30th day of January, 2002.



Donald E. Mitchell, Esq.
Hearings Officer