



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Town of Seabrook

Complainant

v.

Local 1984 SEIU, SEA
Seabrook Employees Association

Respondent

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Case No. M-0591-36

Decision No. 2002-085

PRE-HEARING DECISION and ORDER

BACKGROUND

The Town of Seabrook ("Town") filed an unfair labor practice complaint against Local 1984 SEIU, SEA acting for the Seabrook Employees Association on May 13, 2002. The Town alleges that the Union's refusal to meet at 4:00 PM for the purpose of conducting grievance hearings is violative of RSA 273-A:4 in that its refusal renders the grievance procedure unworkable. Further, the Town alleges that the Union's refusal to meet and subsequent attempt to seek arbitration is violative of RSA 273-A:5 II (b) in that such action interferes with the Town's right to represent itself with its governing body. Lastly, the Town alleges that certain monitoring actions undertaken by members of the Union amount to offensive and illegal surveillance of the Town's Selectmen in violation of RSA 273-A:5 II (b) and (f).

The Town requests relief in the form of a finding that the Union committed an unfair labor practice, an order that the Union to desist from proceeding with its arbitration request, and an assessment that the Union reimburse the Town for reasonable costs necessitated by this complaint.

For its part, the Union seeks to have the PELRB compel the Town to participate in arbitration of the issue regarding the scheduling of Step IV Grievance hearings.

PARTICIPATING REPRESENTATIVES

For the Complainant: Robert D. Ciandella, Esquire

For the Respondent: Brian Mitchell, Negotiator and Field Representative II

PRIMARY ISSUE FOR DETERMINATION BY THE BOARD

1. Whether the Union committed an unfair labor practice by refusing to meet for grievance hearings at 4:00 PM in violation of RSA 273-A:4.
2. Whether the Union's request for arbitration on the issue of the time of day for the scheduling of grievance hearings is in violation of RSA 273-A:5, I(b).
3. Whether certain monitoring actions undertaken by members of the Union amount to offensive and illegal surveillance of the Town's Selectmen in violation of RSA 273-A:5 II (b) and (f).

WITNESSES

For the Complainant:

1. E. Russell Bailey, Town Manager

For the Respondent:

1. Cora Stockbridge, President, Seabrook Employees Association
2. Oliver Carter, Selectman
3. Karen Knight
4. Asa Knowles
5. Blanch Gove-Bragg, Secretary, Fire Department
6. David A Currier, President, AFSCME Local

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

Joint Exhibit:

1. Current Collective Bargaining Agreement, effective 4/20/01 through 3/31/02
2. Letter from Mitchell to Bailey, dated 2/12/02
3. Letter from Board of Selectmen to Mitchell, dated 4/15/02

For the Complainant:

1. Pending Grievances*

* The Complainant shall confer with the Respondent to identify the relevant grievances intended to be used as exhibits in conformity with the order, below.

For the Respondent:

1. Union Local's Grievance Log
2. Grievance regarding the scheduling of grievance meeting, dated 3/28/02
3. Letter from Bailey to Mitchell, dated 3/21/02
4. Letter from Mitchell to Bailey, dated 4/30/02
5. Letter from Mitchell to Denaco, dated 5/21/02
6. Letter Denaco to Mitchell, dated 5/31/02

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.

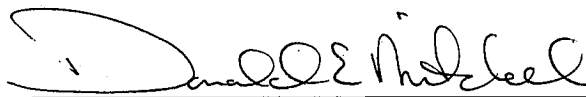
LENGTH OF HEARING

The time being set aside for the combined 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 no later than ten (10) days from the date of this Order.

DECISION AND PRE-HEARING ORDER

1. The parties shall meet or otherwise confer to review the referenced grievance files that the Town intends to enter as exhibits and to redact from each grievance file as much personal information as is not necessary to the merits of the instant matter and to exchange any outstanding documents copies of which are not in the possession of the other.
2. The parties shall also meet or otherwise confer for the purpose of discussion such facts as may be mutually agreed to and shall submit a joint statement of said agreed facts prior to presentation of the Town's case at the hearing. It is understood by the parties that any such stipulated facts as appear within that agreed statement shall be accepted by the PELRB as evidence and no additional evidence need be submitted to establish the existence or non-existence of that fact
3. 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 the hearing date indicated below. The parties shall also 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.
4. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) calendar days prior to the scheduled hearing date.
5. 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 Thursday, August 13, 2002 beginning at 9:30 A.M.

Signed this 26th day of July, 2002



Donald E. Mitchell, Esq.
Hearings Officer