

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Seabrook Employees Association  
Local 1984 SEA/SEIU

Complainant

v.

Town of Seabrook

Respondent

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Case No. M-0575-17

Decision No. 2002-144

PRE-HEARING DECISION and ORDER

BACKGROUND

The Seabrook Employees Association, Local 1984 SEA/SEIU (hereinafter referred to as the "Union") filed an unfair labor practice charge on October 11, 2002 alleging that the Town of Seabrook (hereinafter referred to as the "Town") has not properly posted copies of three (3) previously filed unfair labor practice complaints in which the Town was a named party to the complaint. The Union alleges that the Town's failure to do so contravenes the Administrative Rules promulgated by the PELRB in furtherance of its jurisdiction under RSA 273-A and constitutes a violation of RSA 273-A:5, I(g). The Union seeks a determination by the PELRB that the Town committed an unfair labor practice and that the Town be ordered to immediately and properly post appropriate copies of the complaints and adhere to the requirements of Administrative Rule Pub 201.02(e) of any future complaints. [ N.B. The Union's original complaint contained an Administrative Rule reference, later corrected by an amendment, following the Town's identification of the incorrect numerical reference] The Union also seeks reimbursement for its reasonable costs of representation and fees necessary to pursue this action.

The Town filed its Answer with the PELRB on October 25, 2002. In essence it agrees with the factual allegations alleged by the Union that the Town has not posted copies of the three (3) actions cited in the Union's instant complaint. The Town, in the manner of a defense asserts that it has acted under a good faith belief that it was not required to post any of the referenced prior complaints. As part of its responsive pleadings it petitions the PELRB for a declaratory ruling of the applicability of Pub 201.02(e) to the referenced complaints. For its part, the Town requests that the PELRB dismiss the instant complaint for failure to state a claim under RSA 273-A:5 for which relief may be granted. The Town also requests an order of the PELRB as to the applicability of Pub 201.02(e) to the Town in the referenced, prior complaints. It, too, seeks an award of its reasonable attorney's fees.

A Pre-Hearing Conference was conducted on December 4, 2002 at which time the parties discussed the likelihood of agreement as to those facts to which they could stipulate and the exhibits, if any, to which they could consent to admission into the record. The parties informed the Hearing Officer that they would submit the case for decision upon a set of stipulated facts, agreed exhibits and their respective legal memoranda of law.

#### PARTICIPATING REPRESENTATIVES

For the Complainant: Jeffrey L. Brown, Union Field Representative

For the Respondent: Robert D. Ciandella, Esquire

#### ISSUE

Whether the town is required to post copies of complaints pursuant to Administrative Rule Pub 201.02(e) in instances where the Town is either a complainant or respondent to the action?

#### WITNESSES

For the Complainant:

None

For the Respondent:

None

EXHIBITS

For the Complainant:

To be identified, if any.

For the Respondent:

To be identified, if any.

LENGTH OF HEARING

The parties have waived the necessity of an evidentiary hearing or oral argument in support of their respective legal memoranda.

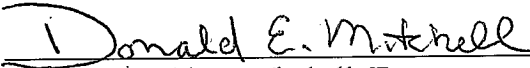
ORDER

1. The Union's unfair labor practice complaint and the Town's petition for a declaratory ruling are consolidated for purposes of a decision. Therefore, in addition to a ruling as to the applicability of Pub 201.02(e) to the Town in the instances cited, the PELRB order shall also decide whether or not the Town has committed the unfair labor practice complained of by the Union and what relief, if any, is appropriate.
2. Attorney Ciandella and Mr. Brown shall meet and confer, in their capacities as representatives of their respective parties, on or before December 19, 2002 for the purpose of stipulating as to all facts and exhibits they desire to be considered in the determination of the instant matters, *i.e.* the declaratory ruling and the unfair labor practice complaint.
3. Both parties shall file their legal memoranda on or before January 24, 2003.
4. The Union shall file an executed document expressing the parties stipulations as to facts and any exhibits.

Unless otherwise ordered as a result of any subsequent filings, a decision shall thereafter issue.

So ordered.

Signed this 5<sup>th</sup> day of December, 2002

  
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Donald E. Mitchell, Esq.  
Hearings Officer

Distribution:

Robert D. Ciandella, Esquire

Jeffrey L. Brown, Union Field Representative, SEIU, SEA