



**State of New Hampshire**

**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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Manchester Education Association, NEA-NH

Complainant

v.

Manchester School District

Respondent

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Case No. T-0242-17

Decision No. 2002-146

PRE-HEARING DECISION and ORDER

BACKGROUND

The Manchester Education Association, NEA-NH ("Union") filed unfair labor practice charges against the Manchester School District "District" on October 7, 2002 pursuant to RSA 273-A:5 I (a), (e), (g), and (h). In its complaint, the Union alleges that it filed a grievance based upon the non-renewal of teacher who was a member of the bargaining unit and that the District has failed or refused to process the grievance. The union alleges that the non-renewed teacher had been employed for at least three years within the District and under the terms of the parties' collective bargaining agreement grievance procedure was entitled to have her grievance processed by the District. The Union states that to fail or refuse to process the grievance constitutes a violation of RSA 273-A: 5, I(a),(e), (g) and (h). As relief, the Union seeks an order of the PELRB, in essence, compelling the District to process the grievance filed on behalf of the non-renewed teacher.

The District filed its answer with the PELRB on October 21, 2002. It admits that it has refused to process the grievance because it does not believe that the teacher is entitled to have it processed. The District bases its refusal on its assertion that the teacher had not been employed in the District for more than three years at the time of the teacher's non-renewal. The District denies that its actions violate the statute.

PARTICIPATING REPRESENTATIVES

For the Complainant: James F. Allmendinger, Esquire

For the Respondent: Dennis T. Ducharme, Esquire

PRIMARY ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the District's non-renewal of Ms. Dahlberg is arbitrable?
2. Whether or not the District's refusal to process the instant grievance constitutes an unfair labor practice under the provisions of the Public Employees Labor Relations Act (RSA 273-A)?

WITNESSES

For the Complainant:

1. Jennifer Dahlberg, grievant
2. Thomas Adams, Jr.,
3. Ellen Healy,

For the Respondent:

None identified to date

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 to be 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 Exhibits:

1. To be determined by the parties following their meeting.

In the event that the parties cannot reach agreement on all Exhibits to be submitted, each reserves the right to submit a separate List of Exhibits in conformity with administrative rules 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 in the event of a hearing.

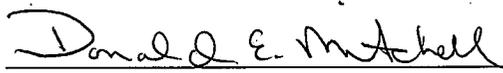
LENGTH OF HEARING

In the event that an evidentiary hearing becomes necessary, the time being set aside is one-half 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 thirty (30) days from the date of this Order.

DECISION AND PRE-HEARING ORDER

1. The party representatives shall meet, or otherwise confer on or before December 16, 2002 for the purpose of stipulating as to such facts as may be agreed upon and are material and relevant to the issues raised. They shall also confer with the purpose of reaching agreement upon all exhibits to be submitted into the case record.
2. In the event that the parties are able to agree upon all facts and exhibits that shall form the basis of the record in this matter, Union's counsel shall file a signed stipulation with accompanying exhibits with the PELRB on or before January 14, 2003.
3. If the parties agree that this matter may be heard on the agreed facts and exhibits, each party shall file a legal memorandum in support of their respective position on the issues delineated above with the PELRB on or before January 14, 2003 accompanied by a letter of transmittal or other document indicating that the party waives an evidentiary hearing in this matter.
4. Should the parties be unable to reach agreement as to all facts and exhibits to be considered by the fact-finder, then in that event those facts and exhibits agreed upon shall be filed by the Union's counsel on or before January 14, 2003 and an evidentiary hearing shall be conducted before the PELRB on the date and at the time indicated below.
5. Any preliminary, procedural or dispositive motions shall be filed by the parties no later than ten (10) 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 on Case No. M-0596-16 is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Thursday, January 28, 2003 beginning at 9:30 A.M.

Signed this 6<sup>th</sup> day of December, 2002

  
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Donald E. Mitchell, Esquire  
Hearing Officer

Distribution:  
James F. Allmendinger, Esquire  
Dennis T. Ducharme, Esquire