

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

State Employees Association of New Hampshire
Local 1984 SEIU

Petitioner

v.

State of New Hampshire

Respondent

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Case No. S-0384-7

Decision No. 2002-151

SUPPLEMENTAL PRE-HEARING ORDER

PARTICIPATING REPRESENTATIVES

For the Complainant: Michael C. Reynolds, Esquire, General Counsel SEIU, SEA-NH

For the Respondent: Thomas F. Manning, Director, Division of Personnel

BACKGROUND

A Pre-hearing Conference was conducted on December 18, 2002 pursuant to a previous order of the PELRB. (See Decision # 2002-100). The above captioned parties represented to the Hearing Officer that issues remained upon which the parties differed and that were not otherwise disposed of in the decision rendered in a related petition for declaratory ruling (Case No. S-0306; see also, Decision # 2002-129). The parties further represented that at the present time there was substantial agreement as to most, and possibly all, material and relevant facts necessary to a determination of this matter. The Hearing Officer deems it necessary for this matter to be scheduled for a final hearing and thereby orders as follows:

1. The parties shall meet and confer, on or before January 24, 2003 to compose a mutual statement of agreed facts as may be stipulated between the two parties.
2. In the event that the parties can stipulate as to all necessary facts, then the Union's counsel shall prepare a document containing all stipulated facts and the parties shall execute the same and the Union's counsel shall file that document and all agreed exhibits with the PELRB on or before February 21, 2003. Also, in the event that all facts and exhibits have been agreed to by the parties and the parties desire that the same shall complete the entire record upon which a determination shall be made, each shall file a legal memorandum in support of its position on the following issues:
 - a. Whether the State of New Hampshire's failure to implement the agency fee provision of the parties' collective bargaining contract within the Department of Safety constitutes an unfair labor practice?
 - b. Whether, if it should be found that the State of New Hampshire has committed an unfair labor practice, any award that may issue shall be made retroactive to May 3, 2002?
3. In the event that the parties have stipulated to all facts and exhibits and inform the PELRB, in writing, that each waives any further oral argument and agrees that the matter may be determined on the written record as submitted, the PELRB shall thereafter issue its order without further hearing.
4. If the parties are unable to agree and stipulate as to all facts and exhibits, then the Union counsel shall submit only those facts and exhibits agreed to and shall inform the PELRB, on or before February 21, 2003, as to the issues of fact that they believe will require an evidentiary hearing at which testimony and any disputed exhibits shall be presented.
5. The parties shall exchange any outstanding documents reasonably requested by opposing counsel no later than February 18, 2003. In the event that either party has a good faith belief that he or she has not received any such document, that representative shall immediately inform the PELRB, in writing, identifying the document requested, the date of the request, and the purpose for which the document is sought. A copy of that notice shall also be provided to the opposing representative who shall, upon receipt, provide the document or inform the PELRB in writing of their reasons for not providing the document to the requesting party.
6. If there is to be an evidentiary hearing the party representatives shall arrange to pre-mark any exhibits, for identification, prior to the time of hearing and arrange to have sufficient copies of all exhibits available for distribution at the hearing as required by Pub 203.02. It is understood that exhibits that are to be used solely for purposes of impeachment may not be marked prior to the hearing.

7. The party representatives shall forward any final 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 date of hearing.
8. 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.

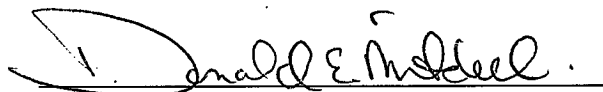
Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing or oral argument between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on March 4, 2002 beginning at 9:30 A.M.

LENGTH OF HEARING

In the event that an evidentiary hearing or oral argument is necessary, the time being set aside for that hearing is one half day if additional evidence is to be offered and one half hour if only oral arguments are to be presented. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB at least fourteen (14) days prior to the evidentiary hearing.

So Ordered.

Signed this 19th day of December, 2002.



Donald E. Mitchell, Esq.
Hearing Officer