

that Section 6.4 of the CBA applies to the instant matter, in that no personnel were relieved from duty. It asserts that all effected employees, in addition to having the holiday off, received eight (8) hours of compensation at their regular rate in accordance with Article IX of the CBA. The Division also maintains that as a matter of law, namely Chapter 318, Laws of 2003, the Association is not entitled to the holiday compensation that it seeks as relief because the prior approval, in accordance with said law, has not been obtained from the Commissioner of the Department of Safety. The Division requests, among other things, that the PELRB determine that the Division did not commit an unfair labor practice.

The instant dispute is presented to the PELRB as the final step of the parties' contractual grievance procedure. In accordance with Section 14.5.1 of the parties' CBA, "the decision of the [PELRB] shall be final and binding."

PARTICIPATING REPRESENTATIVES

For the Association: James Donchess, Esq.

For the Division: Marta A. Modigliani, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

Whether or not the Division violated Section 6.2 and/or Section 6.4 of the parties' collective bargaining agreement (CBA), thus committing an unfair labor practice within the meaning of RSA 273-A:5 I (h), by altering certain employee work schedules for July 4, 2003 and September 1, 2003 (Labor Day).

WITNESSES

For the Association:

1. Trooper John Cody
2. Trooper Lou Copponi, Assoc. Pres.
3. Trooper Bruce Twyon
4. Sergeant Rich Mitchell

For the Division:

1. Colonel Gary M. Sloper
2. Captain Kevin Hamilton
3. Captain Craig Wiggin
4. Major Kevin O'Brien (Ret.)

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 with 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 Exhibits:

1. Parties' collective bargaining agreement, 2001 - 2003
2. Schedule changes

For the Association:

1. Prior Collective Bargaining Agreements, re: scheduling language.

For the Division:

1. Standard Operating Procedures:
 - (a) 1.8.0 – Relief from duty
 - (b) 1.7.2 – Assignments
2. Certain provisions of Chapter 212, Laws of 2003
3. Certain provisions of Chapter 318, Laws of 2003 (Operating Budget for 2004-2005)

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 with 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 understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

The time set aside for this hearing will be one (1) day. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least twenty (20) days prior to the date of the evidentiary hearing.

DECISION

1. The parties stipulate to the PELRB's jurisdiction in this matter.
2. The parties' representatives shall meet, or otherwise confer, on or before **November 25, 2003** in order to compose a mutual statement of agreed facts. The parties' representatives shall memorialize those facts upon which they can so stipulate and file said document with the PELRB at least five (5) days prior to the date of the hearing.

3. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, and to the PELRB, at least five (5) days prior to the scheduled hearing date. 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.

4. The parties shall file any additional preliminary, procedural or dispositive motions no later than twenty (20) calendar days prior to the scheduled hearing date.

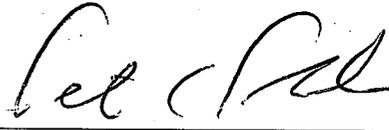
5. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on

December 9, 2003 at 9:30 AM

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So ordered.

Signed this 14th day of November, 2003.



Peter C. Phillips, Esq.
Hearings Officer

Distribution:

James W. Donchess, Esq.
Marta A. Modigliani, Esq.