



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

City of Manchester Police Department

Complainant

v.

Manchester Police Patrolman's Association

Respondent

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Case No: P-0706-37

Decision No. 2006-096

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The City of Manchester Police Department (hereinafter "City") filed an unfair labor practice complaint on March 10, 2006 alleging that the Manchester Police Patrolman's Association (hereinafter "Union") committed unfair labor practices in violation of RSA 273-A:5 II (f), by its actions in improperly demanding arbitration of a grievance filed by the Union related to the City's creation of an additional shift, referred to as the "jeep shift", and prohibiting K-9 police officers from bidding onto that shift.

As remedies, the City requests that the PELRB determine that any of the City's actions were properly undertaken as an exercise of management rights and (1) stay the selection of an arbitrator; (2) schedule a hearing on this matter; (3) find the union guilty of violating RSA 273-A:5, II (f); (4) order the union to cease and desist from this unfair labor practice and to withdraw its request for arbitration.

The Union filed its answer denying the Union's charge on March 23, 2006 and Motion to Dismiss. While the Union generally admits to the chronology of events as described in the City's complaint, it denies that it has committed any improper labor practice and is entitled to have its grievance heard by an arbitrator.

The Union requests that the PELRB (1) deny the City's complaint; (2) declare that the request for arbitration filed by the MPPA go forward to arbitration; (3) decide that the issue of whether K-9 officers will be permitted to bid for the "jeep shift" as is required by Section 8.3 of the CBA is a proper subject of arbitration.

A pre-hearing conference before the undersigned Hearing Officer, at which both parties were represented, was conducted on June 8, 2006 at the PELRB offices, Concord, New Hampshire. At that time, discussion ensued regarding uncontested facts, and modifications to the parties' prior submitted Pre-Hearing Worksheets related to additional witnesses and exhibits.

PARTICIPATING REPRESENTATIVES

For the City: David Hodgen, Chief Negotiator

For the Union: James W. Donchess, Esq.

ISSUE PRESENTED FOR REVIEW

- (1) Whether the City's action in prohibiting K-9 Officers from bidding onto the so-called "jeep shift" is arbitrable?

WITNESSES

For the City:

1. Gary Simmons
2. John Jaskolka
3. Glen Leidemer
4. John Dussault, Supervisor of K-9 Officers

For the Union:

1. Todd Boucher, Union President
2. K-9 Officer
3. One traffic officer
4. One detective
5. One juvenile officer
6. One member of patrol division
7. K-9 officer from previous Jeep Shift

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

For the City:

1. RSA 105:2 (Exhibit B)
2. Shift Assignment – Request (Ex. C) 11/9/05
3. Step 2 Grievance (Ex. D) 12/16/05
4. Pre-arbitration report (Ex. E) 1/12/06
5. Arbitration list (Ex. F) 3/1/06
6. MPD SOP Allocation & Distribution of Personnel 7/05
7. MPD SOP Canine Units 7/05
8. MPD SOP K-9 Agreement (undated)
9. Departmental Organizational Chart (current)
10. Daily roster documents 3 documents one for each shift and showing jeep document
11. Supervisor Assignments for May 2, 2006

For the Union:

1. Collective Bargaining Agreement
2. Grievance filed by MPPA

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-half (½) 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. On or before June 30, 2006, the parties shall exchange exhibits intended to be used at the evidentiary hearing on the merits.
2. The parties' representatives shall meet, or otherwise confer, on or before June 30, 2006, to attempt to compose a mutual statement of such relevant facts as would not be in contest at the evidentiary hearing. The parties' representatives shall memorialize

those facts upon which they can so stipulate and file that document with the PELRB at the time written submissions are filed, or least five (5) days prior to the date of the hearing, as the case may be.

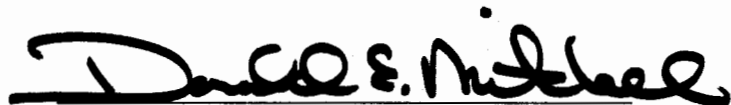
3. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, and to the PELRB, at least five (5) days prior to the scheduled hearing date. The party representatives shall meet, or otherwise 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 thirteen (13) 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:

July 18, 2006 @ 9:30 a.m.

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

So ordered.

Signed this 8th day of June, 2006.

A handwritten signature in black ink that reads "Donald E. Mitchell". The signature is written in a cursive style with a horizontal line underneath the name.

Donald E. Mitchell, Esq.
Hearing Officer

Distribution:
David Hodgen, Chief Negotiator
James W. Donchess, Esq.