



State of New Hampshire  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Tamworth Educational Support Personnel  
Association/NEA-NH

Complainant

v.

Tamworth School District

Respondent

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Case No: E-0025-1

Decision No. 2006-108

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The Tamworth Educational Support Personnel Association/NEA-NH (hereinafter "the Union") filed an unfair labor practice complaint on May 24, 2006 alleging that the Tamworth School District (hereinafter "the District") violated RSA 273-A:5 I (a), (c), (d) and (h) by terminating head cook Margaret DeLong. According to the Union, the Tamworth School Board upheld SAU #13 Superintendent Gwen Poirer's recommendation to dismiss Ms. DeLong based upon an auditor's report recommending that a long-standing practice of employee's "special purchases" from School District food and equipment vendors be stopped. The Union claims that Ms. DeLong is President of the Tamworth Education Support Personnel Association and an outspoken advocate for her association's members, that in the past she has filed contentious grievances and challenged the school Superintendent over a wage payment issue. The Association contends that Ms. DeLong was terminated because of these activities.

As remedies, the Union requests that the PELRB: (1) order that the District reinstate Ms. DeLong with back pay and that she otherwise be made whole; (2) require that its order be posted in conspicuous places in the school district; and (3) grant such other relief as is just and proper.

The District filed its answer on June 7, 2006 and denies it has committed an unfair labor practice. The District asserts that the Superintendent's termination recommendation was based in part upon certain findings by an auditor and that Ms. DeLong's termination occurred some time after her involvement in certain grievances filed by the Union.

The District requests that the PELRB: (1) affirm the decision of the Tamworth School District terminating Ms. DeLong; (2) dismiss the Unfair Labor Practice Charge; (3) award the Tamworth School District its costs, including reasonable attorneys' fees; and (4) award such other relief as justice may require.

A pre-hearing conference before the undersigned Hearing Officer was conducted on July 19, 2006 at the PELRB offices, Concord, New Hampshire.

#### PARTICIPATING REPRESENTATIVES

For the Union: James Allmendinger, Esq. and Peter Miller, UniServ Director

For the District: Mark T. Broth, Esq.

#### ISSUES PRESENTED FOR BOARD REVIEW

- (1) Whether the District committed an unfair labor practice within the meaning of RSA 273-A:5 I (a),(c), or (d) when it terminated Margaret DeLong?
- (2) Whether the District retaliated against Margaret DeLong in violation of Article II (B) of the parties' CBA and thereby committed an unfair labor practice within the meaning of RSA 273-A:5 I (h)?

#### WITNESSES

For the Union:

1. Margaret DeLong, Charging Party
2. Noel DeSousa, Principal
3. Gwen Poirier, Superintendent SAU #13
4. Joanne Dolbear, Finance Manager SAU #13
5. Lisa Tucker, Assistant Cook
6. Peter Miller, UniServ Director
7. Denis O'Neil, Teacher
8. Marsha McKenna, Teacher
9. Other staff as needed

For the District:

1. Joanne Dolbear, Finance Manager SAU #13
2. Superintendent Gwen Poirier
3. Tamworth School Board
4. Gregory Colby, CPA
5. Margaret DeLong, Charging Party

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 Union:

1. Collective Bargaining Agreement
2. All exhibits and records of the Tamworth School Board dismissal hearing
3. Other records as needed
4. Exhibits identified by the employer and other exhibits needed to rebut the employer's case

For the District:

1. Letter – February 9, 2006, Superintendent of Schools to Gregory Colby, CPA
2. Letter – February 27, 2006, Superintendent of Schools to Margaret DeLong
3. Audit Report – March 6, 2006, Gregory Colby, CPA to Tamworth School District
4. Letter – March 7, 2006 – Superintendent of Schools to Margaret DeLong
5. Letter – March 21, 2006, Attorney Jay C. Boynton to Attorney James F. Allmendinger
6. Job Description, Head Cook
7. Summary Account, Prepared by Margaret DeLong
8. Miscellaneous Notes, Peg Charge
9. Sysco Invoice, Delivery May 16, 2005
10. Daily Deposit Record, June 23, 2005, Prepared by Margaret DeLong
11. Deposit Slip dated in hand June 23, 2005, actually deposited September 2, 2005
12. Check #3468 from Margaret DeLong dated in hand June 23, 2005 actually deposited September 2, 2005
13. Summary of Margaret DeLong transactions 2004-2005 with supporting documents, prepared by Joanne Dolbear
14. Summary of Margaret DeLong transactions 2005-2006 with supporting documents prepared by Joanne Dolbear
15. Photographs of freezer contents, February 22, 2006

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 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' representatives shall meet, or otherwise confer, on or before August 11, 2006, in attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. In the event that agreement is reached to submit the case by written submission, the parties shall forthwith file a joint statement indicating such agreement and include a proposed schedule for the parties' filings.
2. If the matter is to proceed to a hearing before the Board, the parties' representatives shall meet, or otherwise confer, on or before August 24, 2006 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 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 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:

**September 7, 2006 @ 9:30 a.m.**

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

So ordered.

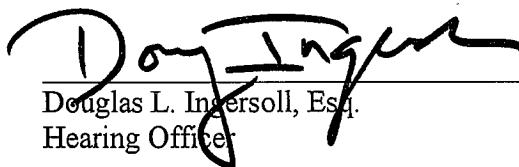
Signed this 19<sup>th</sup> day of July, 2006.

Distribution:

James Allmendinger, Esq.

Peter Miller, UniServ Director

Mark T. Broth, Esq.

  
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Douglas L. Ingersoll, Esq.  
Hearing Officer