



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New England Police Benevolent Association,
Local 50

Petitioner

v.

State of New Hampshire, Department of Safety,
DMV

Respondent

Case No. P-0787

Decision No. 2006-132

New England Police Benevolent Association,
Local 50

Petitioner

v.

State of New Hampshire, Department of Safety,
DMV

Respondent

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ORDER

The Public Employee Labor Relations Board ("PELRB") conferred for the purpose of considering the State Employees' Association of New Hampshire, SEIU Local 1984, (hereinafter the "SEA") "Appeal of Decision of Hearing Officer Denying Motion to Continue" and took the following action:

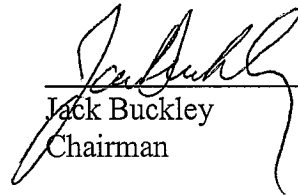
1. Pursuant to RSA 541 and N.H. Admin R. Pub 205.01, it reviewed the Motion for Review of Decision of Hearing Officer filed by SEA on August 25, 2006.
2. It examined the previous actions of the agency in this matter, specifically PELRB Decision No. 2006-128.
3. It reviewed the previous filings of the parties in this matter.

4. The PELRB does not specifically address or rule upon whether N.H. Admin. R. Pub 205.01 is intended to allow, at this point in a PELRB proceeding, a request for a review of a hearing officer decision denying a motion to continue an informal pre-hearing conference conducted pursuant to N.H. Admin. R. Pub 202.
5. The PELRB does note that the interests of judicial economy (and applicable PELRB rules) would appear to favor providing the hearing officer with considerable discretion in scheduling and conducting informal pre-hearing conferences and would not favor the regular, interim involvement of a board to review such scheduling matters during the pendency of PELRB proceedings.
6. This is not to say that appeals of such decisions would not be appropriate at the conclusion of PELRB proceedings. However, it should be recognized that Pub 202.01(a) allows one or more informal pre-hearing conferences, that further informal pre-hearing conferences may be conducted in this case, and any such further informal pre-hearing conferences and/or the final decision on the merits might satisfactorily address or eliminate concerns a party might earlier have had about the scheduling of informal pre-hearing conferences. In this sense, the PELRB believes appeals such as the one filed by the SEA can be premature.
7. The PELRB cannot say in this particular circumstance that it was improper for the hearing officer to deny SEA's motion to continue the August 24, 2006 informal pre-hearing conference or that the informal pre-hearing conference could not proceed until the SEA had an opportunity to file and obtain a board ruling on the instant appeal.
8. Based upon the pleadings filed in this case at the time of the August 24, 2006 informal pre-hearing conference, and given that the rules contemplate and allow more than one informal pre-hearing conference where deemed appropriate, denying the motion to continue and conducting the informal pre-hearing conference on August 24, 2006 as scheduled was consistent with the purpose of Pub 202.01(a), which provides that such conferences are held "[i]n order to facilitate proceedings and encourage informal disposition of matters pending before it." Further, the hearing officer's decision is consistent with the provisions and standards set forth in Pub 201.07(e)(the procedure for requesting hearing continuances and the process for evaluating such requests).
9. Finally, SEA's argument that all PELRB proceedings in this case should in effect have been suspended for 30 days in order to provide SEA with an opportunity to make a Pub 205.01 request for review of a hearing officer decision relating to the scheduling and conduct of a Pub 202.01(a) informal pre-hearing conference is not persuasive. This interpretation of the rules would give a party greater control over the scheduling and processing of PELRB cases than the PELRB believes is intended by the General Court in adopting its rules, and could conceivably result in numerous and unnecessary delays in the processing of cases on the PELRB docket. The PELRB

believes that one of the important purposes of RSA 273-A, and an overriding objective in general in administrative law, is to provide affected parties with a process that is more efficient and timely than would be true were such cases processed through the regular state trial courts, and the PELRB is mindful of this objective in making this ruling.

It is so ordered.

Signed this 31st day of August, 2006.



Jack Buckley
Chairman

By unanimous decision. Chair Jack Buckley, Member E. Vincent Hall and Alternate Member Carol M. Granfield also voting.

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