



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

New Hampshire Insurance Department	*	
	*	
Petitioner	*	Case No. S-0415-1
v.	*	
	*	
SEA/SEIU Local 1984, AFL-CIO	*	Decision No. 2006-150
	*	
Respondent	*	

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The New Hampshire Insurance Department ("NHID") filed a petition for decertification on August 16, 2006. The petitioner is identified as the NHID in the original petition, which the PELRB understands to refer to the employees identified in the petition, who submitted interest cards, and who are members of the bargaining unit or units at issue. The petitioner has since amended this to read "Classified Employee Petitioners of the New Hampshire Insurance Department."

The SEA/SEIU Local 1984 ("SEA") filed a responsive pleading on August 31, 2006. SEA claims 1) that only a unit member or group of unit members may file a decertification petition; 2) that the employees of the NHID belong to two separate units, consisting of a supervisory employees unit certified by the Board in 1980 and a non-supervisory employee unit certified by the Board in 2004 (Decision No. 2004-046); 3) that Charles Burdette is a member of the supervisory unit and he improperly signed and is identified as the representative in the petition; 4) that the petition fails to establish the 30% requisite showing of interest; 5) that an informal pre-hearing conference held on August 30, 2006 was improper because the parties were not sent and did not file pre-hearing conference worksheets; 6) that the SEA otherwise complains about the conduct of the informal pre-hearing conference; 7) that statutory prerequisites must be deemed satisfied by the Board of the PELRB before any pre-election hearing may be held; and 8) that SEA's objections must be resolved by a full Board of the Public Employee Labor Relations Board before a pre-election hearing may be held.

An informal pre-hearing conference was conducted on August 24, 2006 and a pre-hearing order issued on August 30, 2006. The motions presently pending are the SEA's Appeal to Full Board, the SEA's Motion to Stay, and the SEA's Motion to Add State of New Hampshire By the Governor's Office As a Necessary and Indispensable Party. The petitioner has filed appearances for Mr. Burdette and Ms. O'Loughlin and an Amendment and Supplement to Petition for Decertification. It is anticipated that responsive pleadings may be filed in response to some of these matters per the schedule established in the August 30, 2006 pre-hearing order.

The undersigned hearing officer conducted a second informal pre-hearing conference on September 15, 2006 at the PELRB offices in Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES AT PRE-HEARING CONFERENCE

For Petitioner: Deborah O'Loughlin

For the SEA: John Krupski, Esq.

Per the petitioner's amendment, consistent with the contents of the original petition, and as confirmed by petitioner at the pre-hearing, the petitioner is proceeding with a decertification request, hoping to qualify for an election where the ballot choices will be "SEA" or "No Representative." At the pre-hearing, the petitioner stated its position that the 2004 certification is the controlling certification and it applies to all classified employees, as it states. The petitioner has submitted filings in which it lists the positions of all classified employees, and petitioner contends these individuals should be referenced for purposes of determining whether the requisite showing of interest has been established and for purposes of conducting an election.

The SEA contends that there are two certifications, one concerning a supervisor's unit and one concerning non-supervisory employees. Although per prior order the SEA had been requested to indicate at the pre-hearing what positions the SEA contends belongs in which unit, at the pre-hearing the SEA indicated that it was unable to do so at this time.

DECISION

- 1) The petitioner identified additional witnesses, namely Barbara Richardson, Director Operations, New Hampshire Insurance Department, Roger Sevigny, New Hampshire Insurance Commissioner, and George Russos, former Insurance Department Employee. Petitioner anticipates it won't be necessary for Mr. Russos to testify. The SEA identified Cathy Desjardins, SEA business manager, and Richard Molan, Esq., former SEA employee and legal counsel to the SEA, as additional witnesses.
- 2) The principal issues in the case are 1) is there one or two (supervisor and non-supervisor) certification(s) applicable to the petitioner's decertification request; 2) if, as the SEA claims, there are two certifications, what positions belong to which unit;

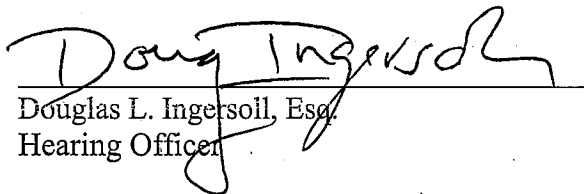
and 3) should the petition proceed to election.

- 3) Any post-hearing briefs the parties desire to file shall be submitted on or before September 28, 2006.
- 4) On or before September 21, 2006 the SEA shall file a statement of which positions it claims belong to which unit, as outlined in the prior pre-hearing order.
- 5) To the extent they have not already done so, and it has not been covered through the pre-hearing, the parties shall submit and exchange a list of all witnesses and the purpose of their testimony and a list of exhibits per Pub 203.
- 6) To the extent they have not already done so, the parties' representatives shall meet, or otherwise confer, on or before September 21, 2006 in order to compose a mutual statement of agreed facts and stipulate to joint exhibits. The parties' representatives shall memorialize those facts and exhibits upon which they can so stipulate and file that document with the PELRB on or before September 21, 2006.
- 7) 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 21, 2006 @ 9:00 AM and continuing on September 22, 2006 if necessary

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

So Ordered.


Douglas L. Ingersoll, Esq.
Hearing Officer

Date Issued: September 15, 2006

Distribution:

Charles Burdette and Deborah O'Loughlin, NHID
John Krupski, Esq.