



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

	*	
NAGE RI-209/Nashua Police Communications Union	*	
	*	
Complainant	*	Case No: P-0786-1
	*	
v.	*	
	*	Decision No. 2006-152
Nashua Board of Police Commission	*	
	*	
Respondent	*	
	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The NAGE RI-209/Nashua Police Communications Union (hereinafter "the Union") filed an unfair labor practice complaint on June 14, 2006 alleging that the Nashua Board of Police Commission (hereinafter "the Commission ") committed an unfair labor practice by breaching the parties' collective bargaining agreement ("CBA"). More specifically, the Union claims that the Commission violated RSA 273-A:5 I (a), and (h) by denying dispatcher Michelle Tremblay's request for union representation in connection with a March 14, 2006 meeting. The Union requests that the PELRB (1) Find that the Commission has committed an Unfair Labor Practice; (2) Order the Commission to cease and desist from further violations of the CBA; (3) Order the Commission to make the Union whole for any and all costs incurred; and (3) Grant such other and further relief as may be deemed just.

The Commission filed its answer denying the Union's charge on June 29, 2006. Although the Commission essentially admits to the chronology of events as described by the Union in its charge, it denies any violation of the parties' contract or the law. The Commission asserts that the March 14, 2006 meeting did not constitute an investigatory interview which triggered Ms. Tremblay's right to union representation. The Commission requests that the PELRB (1) Find that the Commission has not violated any provisions of RSA 273-A; (2) Deny the Union's request to cease and desist orders pursuant to RSA 273-A; (3) Deny the Union's request for costs and expenses associated with their filing of the Unfair Labor Practice; and (4) Deny any other requests for relief or remedy.

The undersigned hearing officer conducted a pre-hearing conference at PELRB offices on September 18, 2006.

PARTICIPATING REPRESENTATIVES

For the Association: Diane S. Byrnes, Esq.

For the City: Stephen M. Bennett, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

- (1) Whether or not the City committed an improper labor practice, within the meaning of RSA 273-A:5 I (a), and (h)?

WITNESSES

For the Union:

1. Michelle Tremblay

For the Commission:

1. Capt. Douglas Sparks
2. Lt. William Mansfield
3. Sgt. Glen Levesque
4. Chief Timothy Hefferan
5. Karen Smith

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. Collective Bargaining Agreement

For the Union:

None other than those marked "Joint".

For the Commission:

1. Request for leave dated 3/11/06
2. Request for leave (personal day) dated 3/11/06

3. Dispatcher/Senior Dispatcher Job Description
4. Member/Employee Performance Summary dated 6/2/06
5. Member/Employee Performance Summary dated 6/9/06
6. Inter-departmental Communications dated 3/14/06
7. Inter-departmental Communications dated 10/15/03
8. Inter-departmental Communications dated 11/29/05
9. Inter-departmental Communications dated 8/18/04
10. Inter-departmental Communications dated 4/14/04
11. Inter-departmental Communications dated 4/21/02
12. Inter-departmental Communications dated 5/14/03
13. Employee Data Calendars for work years 1999-2006

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 being set aside for this hearing is one-half 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 are close to resolving this matter by agreement. On or before October 2, 2006 petitioner shall file appropriate documents concluding this case in the event the matter is finally resolved by agreement. In the absence of such agreement, the case shall proceed as outlined herein.
2. The parties' representatives shall meet, or otherwise confer, on or before October 6, 2006 and attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. It appears that this particular case is well suited for such submission. 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.
3. The parties' representatives shall otherwise meet, or otherwise confer, on or before October 6, 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, along with any corresponding exhibits, with the PELRB at least five (5) days prior to the date of the hearing.
4. 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.

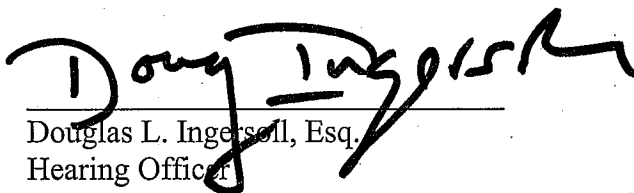
5. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

October 17, 2006 @ 9:30 AM

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

So ordered.

Signed this 18th day of September, 2006.


Douglas L. Ingersoll, Esq.
Hearing Officer

Distribution:

Diane S. Byrnes, Esq.

Stephen M. Bennett, Esq.