



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Classified Employee Petitioners of the	*	
New Hampshire Office of Information Technology	*	
	*	
Petitioner	*	Case No. S-0411-2
	*	
v.	*	
	*	
State of New Hampshire	*	Decision No. 2006-194
	*	
And	*	
	*	
SEA/SEIU Local 1984	*	
	*	
Respondents	*	
	*	
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PRE-HEARING ORDER AND MEMORANDUM

BACKGROUND

In Case No. S-0411-2, filed September 15, 2006, Dane Prescott as representative filed an unfair labor practice complaint. According to the complaint, the charging party is "State Employees" who are not named but who consist of Group 1 (new employees coerced by the union or the State into joining the State Employees Association/SEIU Local 1984 [the "SEA"]), Group 2 (non-union employees whom the State encouraged to join the SEA), and Group 3 (non-union employees subject to the Fair Share provision in the SEA collective bargaining agreement).

The petitioner claims that the State and the SEA have conspired to create an environment whereby State employees are coerced and encouraged to join the union as a condition of employment as evidenced by directives issued by Sara Willingham, State Manager of Employee Relations. These included requiring the State Agency Human Resources to include the SEA in State Employee Orientations for new employees, requiring Agency Appointing Authorities to issue memorandums in June, July, and August 2006 requiring that employees submit SEA union enrollment cards directly to the SEA, and requiring Agency Appointing Authorities to withhold involuntary payroll deductions from employees, all in violation of RSA 273-A:5, I (a),(b) and (c).

The petitioner also claims that the SEA coerced, intimidated, and bullied new employees into joining the SEA at State Employee Orientations without fully explaining all employee options, that the SEA coerced, intimidated, and bullied State employees into allowing these coercive tactics at State Employee Orientations, and also demanded that employees sign payroll authorization forms as a result of reaching the union membership percentages that invoke the Fair Share provision, all in violation of RSA 273-A:5, II (a) and (c).

The petitioner requests that the State survey Group 1 employees concerning coercion by the SEA and permit such employees to submit signed statements effectively allowing their withdrawal from SEA Union membership, survey Group 2 employees for the same reasons, suspend collection of Fair Share Fees until the surveys are completed, and suspend involuntary payroll deductions for Group 3 employees who have not elected this option.

On September 30, 2006 the SEA filed its answer. The SEA states that: 1) Mr. Prescott should be deemed the sole petitioner; 2) petitioner states legal conclusions, not factual allegations; 3) any allegations against the SEA are denied; 4) the petition is barred in whole or in part by RSA 273-A:6; 5) petitioner lacks standing; 6) negotiated compulsory agency fees are proper; 6) the relief sought is beyond the authority of the PELRB; and 7) the petition fails to state a cause of action upon which relief may be granted.

On October 2, 2006 the State filed its answer. The State claims that: 1) Sara Willingham did not encourage state employees to join the SEA; 2) the State did not use coercive membership enrollment practices or conspire with the SEA; 3) CBA 3.10 allows the SEA to participate in new employee orientation; 4) memoranda were sent to employees regarding agency fee deductions pursuant to the CBA; 5) agency fees have been deducted from some employee paychecks pursuant to the CBA; and 6) any remaining allegations are denied.

On October 2, 2006 the State filed a motion to dismiss, claiming that to the extent the Petitioner is complaining about the agency fee or its required implementation RSA 273-A:6, VII bars the claim as in this case the State was doing nothing more than implementing provisions of a CBA negotiated in 1999 and 2001.

The undersigned hearing officer conducted an informal pre-hearing conference on October 4, 2006.

Representing Petitioners

Dane Prescott

Representing: State Employees' Association of NH, Inc., SEIU Local 1984

John S. Krupski, Esq.

Representing: State of New Hampshire

Michael K. Brown, Esq.

DECISION

At the pre-hearing conference the parties agreed that the PELRB should decide the motion to dismiss before proceeding with a hearing on the merits, currently scheduled for November 29, 2006. Accordingly, petitioner shall file any further pleadings, amendments or otherwise, on or before November 3, 2006. The SEA and the State shall file any further responsive pleadings on or before November 10, 2006. Any briefs shall be filed on or before November 14, 2006.

A hearing on the Motion to Dismiss shall be held on November 14, 2006 at 9:30 a.m. at the PELRB in Concord, New Hampshire.

So Ordered.



Douglas L. Ingersoll, Esq.
Hearing Officer

Date Issued: October 26, 2006

Distribution:

Dane Prescott
John Krupski, Esq.
Michael K. Brown, Esq.