



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Local 2715, Hillsborough County	*	
Nursing Home Employees	*	
	*	
Complainant	*	Case No: G-0046-5
	*	
v.	*	
	*	Decision No. 2007-078
Hillsborough County	*	
Respondent	*	
	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

AFSCME Local 3657, Hillsborough County Nursing Home Employees (the "Union") filed an unfair labor practice complaint on April 26, 2007 alleging that Hillsborough County (the "County") committed unfair labor practices in violation of RSA 273-A:5 I (b), (e), (g), (h) and (i) by virtue of changes to Nursing Service Policy 11, dealing with "Weekend Make-up." The Union claims the changes were unilateral and that the County failed to bargain in good faith. As remedies, the Union requests that the PELRB: 1) Find that the County has failed to bargain in good faith; 2) Order the County to cease and desist from dominating and interfering with the employee organization; 3) Order the County bargain in good faith; 4) Order the County to publicly post the findings of the Board for 30 business days; 5) Order the County to make the Union whole for any and all costs and expenses incurred in pursuing the complaint; and 6) Order any and all other relief as the Board deems necessary and appropriate.

The County filed its answer denying the Union's charge on May 8, 2007. The County contends that changes to the policy were discussed with the Union, denies that it made unilateral changes, and asserts that the Union President agreed to the changes at issue. Accordingly, the County requests that the PELRB: 1) Dismiss the charges; 2) Award attorney's fees and costs; and 3) Order such further relief as the Board deems just and proper.

The undersigned Hearing Officer conducted a pre-hearing conference on May 30, 2007 at the PELRB offices, Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES

For the Union: Daniel Cocuzzo, Esq.

For the County: Carolyn Kirby, Esq.

ISSUE PRESENTED FOR BOARD REVIEW

Whether Union President Marc Goulet had binding authority to agree to the changes to Nursing Service Policy 11, Weekend Make-up (Sec. VII, 24), and if not, has the County failed to bargain in good faith, made unilateral changes to Nursing Service Policy 11 or otherwise failed to comply with the parties' mutually agreed upon CBA in violation of RSA 273-A:5 I (b), (e), (g), (h), and (i)?

WITNESSES

For the Union:

1. Randi Hults, Union Steward
2. Chris Benner, Union Steward

For the County:

1. Bruce Moorehead, Nursing Home Administrator
2. Marc Goulet, (former) Union President

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. Certification, Decision No. 2003-076
2. Collective Bargaining Agreement
3. 1/9/07 Memo from Chris Benner to Diane Boutin
4. 1/11/07 Memo from Diane Boutin to Staff

For the County:

1. 10/13/06 Memo from Bruce Moorehead to Marc Goulet

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-half (½) 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 1, 2007 and 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 1, 2007 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. In accordance with discussions at the pre-hearing conference, the Union shall file a supplement to its complaint on or before July 15, 2007 stating with factual specificity how the County violated RSA 273-A:5, I (b) and (h). The Union's date corrections to the complaint (2007 to 2006) are noted, as is the replacement in paragraph 5 of the complaint of "vacation policy" with "weekend make-up policy."

6. At the pre-hearing conference counsel for both parties indicated it would be beneficial to allow the parties 60 days to review and discuss the information concerning former Union President Goulet's actions with respect to Nursing Service Policy 11, Weekend Make-up (Sec. VII, 24) to see if an agreed upon resolution to this dispute is possible. The hearing will be rescheduled from June 14, 2006 to August 16, 2007 on this basis.

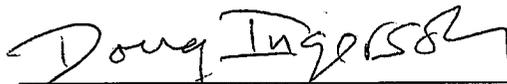
7. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

August 16, 2007 @ 9:30 AM

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

So ordered.

May 30, 2007.



Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:

Steve Lyons, Staff Representative
Joseph DeLorey, Esq.
Daniel Cocuzzo, Esq.
Carolyn Kirby, Esq.