



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

HAMPSTEAD POLICE UNION, NEPBA LOCAL 37

COMPLAINANT

CASE NO. P-0796-1

v.

DECISION NO. 2009-006

TOWN OF HAMPSTEAD

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 12, 2009

Appearances: Complainant: Peter J. Perroni, Esq.
Respondent: J. Joseph McKittrick, Esq.

Background:

Hampstead Police Union, NEPBA Local 37 ("Union") filed an unfair labor practice complaint on December 09, 2008. The Union claims that the Town of Hampstead ("Town") refused to pay certain employees agreed-upon and legislatively approved pay increases. The Union contends that, as a result, the Town violated RSA 273-A:5, I (a), (b), (c), (d), (g) and (i).

The Union requests that the PELRB order the Town to cease and desist from its unlawful conduct and pay the subject employees amounts sufficient to make them whole for the loss of pay caused by the Town's refusal to pay the step increases.

On December 15, 2008 the Town filed its answer denying the Union's charge of unfair labor practice. The Town contends that the pay increases were discretionary and that, pending an election and bargaining with an exclusive representative, the Town was obligated to maintain "status quo" and refrain from adopting changes in wages, hours or working conditions with regard to the members of the bargaining unit.

The Town requests that the PELRB find that the Town has not violated its obligations with regard to the NEPBA Local 37 unit and dismiss the Union's unfair labor practice charge.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Town was obligated to pay certain employees step increases during the mandated election and bargaining status quo period.
2. Whether the Town committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (c), (d), (g), or (i) by refusing to pay previously agreed-upon step increases during election and bargaining period.

WITNESSES

For the Union:

1. Richard Chambers
2. Allan Fratus
3. Ann Beaudoin
4. Kathleen Boulter
5. Ron Scaccia

For the Town:

1. James Stewart
2. Prescilla Lindquist

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. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective lists will be available at the hearing.

EXHIBITS

For the Union:

1. Town Pay Matrix
2. Documents related to certification

The Town did not identify any exhibits at this time.

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. 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.

DECISION

1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.

2. The parties shall determine and inform the PELRB whether they would prefer to submit the case on stipulated facts and briefs no later than January 23, 2009. If the parties decide to submit the case on stipulated facts and briefs, the parties shall file a proposed schedule of the submission of the stipulated facts and briefs no later than January 28, 2009. In the absence of communication from the parties indicating their preference for submission of the case on stipulated facts and briefs, the following schedule will apply.

3. The parties shall prepare and file a statement of stipulated facts no later than January 28, 2009.

4. ~~The parties shall amend and exchange their Witness and Exhibit lists no later than January 28, 2009.~~

5. The parties shall 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.

6. The complaining party shall inform the PELRB of any settlement of the pending issues immediately indicating that the respondent agrees to the cessation of litigation on the pending matters.

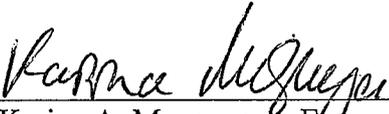
HEARING

Unless otherwise ordered as a result of the filing of a Motion to Continue or other motion, the evidentiary hearing between the parties will be held on **February 3, 2009 at 9:30**

AM at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours. 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 10 days prior to the date of hearing.

So ordered.

January 12, 2009



Karina A. Mozgovaya, Esq.
Staff Counsel/Hearing Officer

Distribution:

Peter J. Perroni, Esq.

J. Joseph McKittrick, Esq.