



**STATE OF NEW HAMPSHIRE**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

**PITTSFIELD TOWN EMPLOYEES, AFT-NH,  
LOCAL 6214**

**COMPLAINANT**

**CASE NO. G-0060-6**

**v.**

**DECISION NO. 2009-122  
(CORRECTED)**

**TOWN OF PITTSFIELD**

**RESPONDENT**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: June 22, 2009

Appearances: Complainant: Teresa D. Donovan, Esq.  
Respondent: Daniel Schwarz, Esq.

Background:

Pittsfield Town Employees, AFT Local 6214, AFT-NH, AFL-CIO (Union) filed an unfair labor practice complaint against the Town of Pittsfield (Town) on May 19, 2009. The Union claims that the Town breached the parties' Collective Bargaining Agreement (CBA) by issuing a verbal warning to the Town's Police Chief on the ground that the Chief gave permission to his Administrative Assistant to work four ten-hour days instead of five eight-hour days without the Board of Selectmen's approval. The Union asserts that the Town disciplined the Chief without cause thereby violating RSA 273-A:5, I (h).

The Union requests the PELRB to find that the discipline administered was without cause and to order any documentation regarding the verbal warning or subsequent grievance removed from the Chief's personnel file.

On May 29, 2009 the Town filed an answer denying the Union's allegations and asserting that the Chief's action in allowing the Administrative Assistant to change the work schedule was not within his scope of authority.

The Town requests that the PELRB dismiss the charge and award the Town its fees and expenses in defending the charge.

At the pre-hearing conference, the counsel for the Town indicated that the matter has been resolved because the Town withdrew the verbal warning and removed all the information pertaining to the warning from the Chief's personnel file. The counsel for the Union represented that, as a result of Town's actions, the Union intends to withdraw the complaint.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Town violated the parties' CBA by issuing a verbal warning to the Police Chief for altering the work schedule of the Police Department's Administrative Assistant without Board of Selectmen's approval.

#### WITNESSES

For the Union:

1. Robert Wharem
2. Deb Gauthier

For the Town:

1. Linda Small
2. Paul Skowron

Both parties reserve the right to amend their Lists 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

Joint and Agreed:

1. Collective Bargaining Agreement
2. Selectmen Minutes (April 21, 2009)
3. Memo to Paul Skowron from Chief Wharem (April 21, 2009)
4. Memo to Chief Wharem from Paul Skowron (April 24, 2009)
5. Memo to Town Administrator from Chief Wharem (April 30, 2009)
6. Memo to Chief Wharem from Paul Skowron (May 6, 2009)
7. Grievance (May 8, 2009)
8. Letter from Linda Small to Chief Wharem (May 13, 2009)

Both parties reserve the right to amend the 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 Complainant shall file a Motion to Withdraw the Complaint, if any, as promptly as possible. In the absence of communication from the Complainant indicating that it withdraws the complaint, the following schedule will apply.

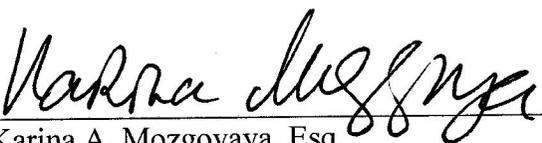
3. The parties shall prepare and file a Statement of Stipulated Facts no later than 10 days prior to the scheduled adjudicatory hearing.
4. The parties shall amend, exchange, and file their Witness and Exhibit lists no later than 10 days prior to the scheduled adjudicatory hearing.
5. The parties shall pre-mark any exhibits prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.03.

HEARING

Unless otherwise ordered as a result of the filing of a Motion to Withdraw the Complaint or other motion, the adjudicatory hearing between the parties will be held on **July 14, 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 2 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.

June 22, 2009

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

Distribution:  
Theresa D. Donovan, Esq.  
Daniel Schwarz, Esq.