



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

EXETER POLICE ASSOCIATION

CASE NO. G-0087-1

v.

DECISION NO. 2009-184

TOWN OF EXETER

ORDER

The Town has requested dismissal by motions filed on March 18, 2009 and August 31, 2009. The Town claims dismissal is required because the Association did not complete the contractual grievance process, which provides for non-binding arbitration as the final step, before filing the current unfair labor practice complaint. The Association claims the parties' contractual grievance procedure is unworkable because neither party is ever willing to accept an unfavorable Arbitrator's Award.

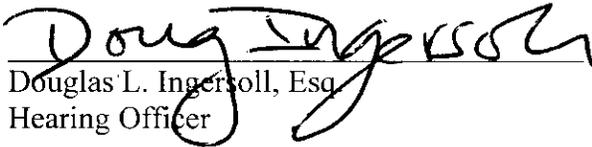
In an earlier proceeding involving the same parties and contractual grievance procedure the board dismissed a complaint filed by the Association, reasoning as follows:

At the November 27, 2007 hearing the board granted the Town's Motion to Dismiss. The board agrees with the Town's argument that the board would not have jurisdiction in this matter until the 5 step grievance process contained in the parties' collective bargaining agreement, including advisory arbitration and action by the Board of Selectmen, is completed. The Board of Selectmen's action, which is the fifth and final step of the grievance process, constitutes the "triggering" event from which the 6 month filing limitation starts to run. The board makes its decision in accordance with *Appeal of State Employees' Association of New Hampshire Inc.*, 139 N.H. 441 (1995) and *Exeter Police Association v. Town of Exeter*, PELRB Decision No. 2005-107.

See Exeter Police Association v. Town of Exeter, Case No. P-0753-15, PELRB Decision No. 2007-162. By their nature grievance procedures which conclude with non-binding or advisory arbitration include the possibility that one of the parties will not accept the arbitral award, but this circumstance does not mean the grievance procedure is unworkable, since the PELRB and the court have previously upheld such grievance procedures. In accordance with the decision in Exeter Police Association case P-0753-15 and the authorities cited therein, the Town's Motion to Dismiss is granted.

So Ordered.

September 9, 2009


Douglas L. Ingersoll, Esq.
Hearing Officer

Distribution:

J. Joseph McKittrick, Esq.

Thomas J. Flygare, Esq.