



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NEW HAMPSHIRE TROOPERS ASSOCIATION

COMPLAINANT

v.

CASE NO. G-0097-3

**NH DEPT. OF SAFETY, DIVISION OF STATE
POLICE**

DECISION NO. 2009-209

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 6, 2009

Appearances: Complainant - John S. Krupski, Esq.
 Respondent - Marta Modigliani, Esq.

Background:

New Hampshire Troopers Association (Association) filed an unfair labor practice complaint against New Hampshire Department of Safety, Division of State Police (State) on July 21, 2009. The Association claims that the State breached Article 3.6 of the parties' Collective Bargaining Agreement (CBA), which allows the Association President 208 hours off per year without loss of time, pay or vacation for the purpose of conducting business of the Association, when the State denied Association President Louis Copponi's request to utilize the Article 3.6 hours to prepare for the adjudicative hearing on the case the Association filed with the PELRB.

The Association also claims that the State breached the parties' CBA by failing to compensate Trooper Robert Lima for testifying, while purportedly on duty, at a hearing before the Personnel Appeals Board and by requiring Tr. Lima to utilize his accrued vacation time instead. The Association contends that the State's actions constitute a violation of RSA 273-A:5, I (a), (b), (c), (d), (g), and (h).

The Association requests the PELRB to find that the State has committed an unfair labor practice, to order the State to cease and desist from any further violations, to order the State to credit the "Union Time" referenced in Article 3.6 of the CBA with 8 hours, and to order the State to restore Tr. Lima's vacation time.

On August 5, 2009 the State filed an answer denying the charges and a motion to dismiss. The State claims that the Association failed to comply with the grievance procedure under the CBA, failed to state claims for violations of Articles 7.6 and 1.5 of the CBA, and failed to comply with the statutory and regulatory prerequisites under RSA 273-A:5, I (c) and (d) and Pub 201.02 (b).

The State requests that the PELRB declare that the State did not commit an unfair labor practice and dismiss the unfair labor practice complaint.

On August 7, 2009 the State filed a motion to sever the unfair labor practice complaints on the grounds, inter alia, that the complaint contains two separate and distinct grievances by the parties with divergent interests, which involve different factual scenarios, different witnesses, and different issues of law and arise under the different articles of the CBA. The State requests that the PELRB sever the cases so that Sgt. Copponi's and Tr. Lima's allegations are treated in all respects as two separate unfair labor practice charges, order the Complainant to file a complaint consistent with Pub 201.02 for each charge, and schedule two separate hearing dates

for the two charges. The Association filed its objection to the motion to sever on August 20, 2009.

DECISION

1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.
2. The State's motion to sever the complaint is hereby granted. The above captioned matter is severed into two separate matters: *New Hampshire Troopers Association/Sergeant Louis Copponi v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-3 and *New Hampshire Troopers Association/Trooper Robert Lima v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-5.
3. The Association may amend its complaint in Case No. G-0097-3 and file a separate complaint in Case No. G-0097-5 on or before **October 16, 2009**, in which event the State shall file its answers to each complaint on or before **October 23, 2009**.
4. The adjudicatory hearing in *New Hampshire Troopers Association/Sergeant Louis Copponi v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-3 will be held on **October 29, 2009** at 9:00 a.m. The scheduling notice will be issued.
5. The adjudicatory hearing in *New Hampshire Troopers Association/Trooper Robert Lima v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-5 will be held on **November 5, 2009** at 9:00 a.m. The scheduling notice will be issued.
6. The parties in *New Hampshire Troopers Association/Sergeant Louis Copponi v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-3 shall file a Statement of Stipulated Facts no later than **October 26, 2009**.

7. The parties in *New Hampshire Troopers Association/Sergeant Louis Copponi v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-3 shall amend, exchange, and file their Witness and Exhibit lists no later than **October 26, 2009**.
8. The parties in *New Hampshire Troopers Association/Trooper Robert Lima v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-5 shall file a Statement of Stipulated Facts no later than **October 30, 2009**.
9. The parties in *New Hampshire Troopers Association/Trooper Robert Lima v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-5 shall amend, exchange, and file their Witness and Exhibit lists no later than **October 30, 2009**.
10. The parties shall pre-mark any exhibits for identification prior to the time of each hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.03.

HEARINGS

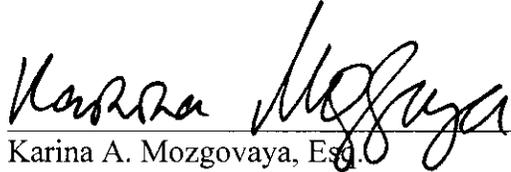
Unless otherwise ordered as a result of the filing of a motion to continue or other motion, the adjudicatory hearing between the parties in *New Hampshire Troopers Association/Sergeant Louis Copponi v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-3 will be held on **October 29, 2009 at 9:00 AM** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 5 hours.

Unless otherwise ordered as a result of the filing of a motion to continue or other motion, the adjudicatory hearing between the parties in *New Hampshire Troopers Association/Trooper Robert Lima v. New Hampshire Department of Safety, Division of State Police*, Case No. G-0097-5 will be held on **November 5, 2009 at 9:00 AM** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 5 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 5 days prior to the date of hearing.

So ordered.

October 7, 2009



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

Distribution:
Marta Modigliani, Esq.
John S. Krupski, Esq.