



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL 633**

COMPLAINANT

v.

**CASE NO. G-0120-1
DECISION NO. 2009-233**

ADMINISTRATIVE OFFICE OF THE COURTS

RESPONDENT

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: October 26, 2009

Appearances: Complainant - Jeff Padellaro, Business Agent
Respondent - Howard Zibel, Esq.

Background:

International Brotherhood of Teamsters, Local 633 (Union) filed an unfair labor practice complaint against the Administrative Office of the Courts (AOC) on September 25, 2009. The Union claims that the AOC violated RSA 273-A:5 by refusing to meet with the Union to discuss the reasons for termination of a bargaining unit member, Guy Carlson, and by refusing to provide requested by the Union documentation regarding the termination. The Union requests that the PELRB order the AOC to reinstate Mr. Carlson.

On October 12, 2009 the AOC filed an answer denying the charge. The AOC filed a motion to dismiss on October 19, 2009. The AOC claims, inter alia, that the Complainant failed

to specify which section of RSA 273-A:5 has been violated; that none of the prohibited practices in RSA 273-A:5, I could apply; and that the PELRB lacks jurisdiction over this matter because no collective bargaining negotiations or agreement existed at the time of Mr. Carlson's termination and the agreement, that has been later ratified, has no provision that would make it retroactive to the time of Mr. Carlson's termination. The AOC requests that the PELRB dismiss the complaint.

The AOC requests that the PELRB make a determination on the motion to dismiss prior to any further proceedings on the complaint. The objection to the motion to dismiss has not yet been filed.

The parties failed to file a joint pre-hearing worksheet that was due October 22, 2009.

On October 26, 2009 the counsel for the AOC appeared at the PELRB offices in Concord for a scheduled pre-hearing conference. The representative for the Union failed to appear but was available on the telephone. With the parties' agreement, the pre-hearing conference was conducted over the telephone.

DECISION

1. "Parties" means the named complainant and respondent or the counsel/representative appearing in the case.
2. The AOC's request that the PELRB make a determination on the motion to dismiss prior to any further proceedings on the complaint is denied. The Board or its designee will hear the AOC's motion to dismiss on the day of the adjudicatory hearing on the merits, i.e., on November 4, 2009.
3. The Union shall file an objection to the AOC's motion to dismiss, if any, no later than **October 30, 2009**.

4. The parties shall prepare and file a statement of stipulated facts no later than **November 2, 2009**.
5. The parties shall amend, exchange, and file their witness and exhibit lists no later than **November 2, 2009**.
6. 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 continue or other motion, the adjudicatory hearing between the parties will be held on **November 4, 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 3 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 26, 2009



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

Distribution:
Jeff Padellaro, Business Agent
Howard Zibel, Esq.