



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

State Employees' Association of NH, SEIU Local 1984

v.

Town of Salem et al.

Case No. G-0080-2

Decision No. 2010-135

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: July 28, 2010

Appearances: Christopher Long, State Employees' Association of NH, SEIU
Local 1984

Nancy E. Oliver, Esq., Town of Salem

Background:

The Association filed an unfair labor practice complaint against the Town on June 17, 2010. The dispute arises out of the alleged breach by the Town of several provisions of the parties' collective bargaining agreement (CBA) in violation of RSA 273-A:5 (h). The Association claims that the Town presented a verbal warning to its employee in writing in violation of Article 19.2.2 of the parties' CBA; that, after the employee grieved the verbal warning, the Town issued the second verbal warning and a written warning in retaliation for filing a grievance thereby violating Article 6.4 of the CBA; and that the Town Clerk has been openly discussing the issuance of the two verbal warnings to the employee with other employees

in violation of Article 19.4 of the CBA. In addition, the Association claims that the Town's words and actions in connection with the grievance restrained, coerced or otherwise interfered with the employees' exercise of their contractual rights, interfered with the administration of the employee organization, and breached the implied covenant of good faith and fair dealing inherent in the CBA in violation of RSA 273-A:5, I (a), (b) and (g).

The Town denies that it has violated any provision of RSA 273-A and asserts, among other things, that the Association failed to state a claim upon which relief can be granted; that the Town acted in good faith and has not violated any provision of the CBA; that the Association's claims are barred because the decisions about which the Association complains were based on legitimate work-related reasons; and that the Town breached no duty or obligation owed to the Association.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Town's actions constitute an unfair labor practice in violation of RSA 273-A:5 (a), (b), (g), and (h).
2. Whether the PELRB has jurisdiction over the disputes arising out of the alleged violations of the parties' CBA?

WITNESSES and EXHIBITS:

As outlined in the parties Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their List of Witnesses and 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 witnesses appearing on their respective list will be available at the hearing. Copies of all exhibits are to be submitted to the presiding officer in

accordance with Pub 203.02. 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

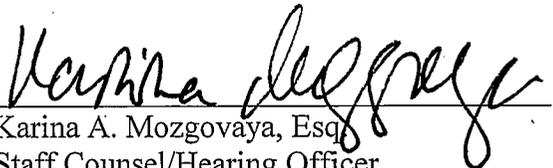
1. "Parties" means the Association, the Town, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The Association's motion to continue is granted. The adjudicatory hearing currently scheduled August 19, 2010 is hereby rescheduled for **September 14, 2010**. The rescheduling notice will be issued.
3. The parties shall prepare and file a final statement of stipulated facts on or before **September 6, 2010**.
4. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists on or before **September 6, 2010**.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the adjudicatory hearing between the parties will be held beginning at **9:00 a.m. on September 14, 2010** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours.

So ordered.

July 28, 2010


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

Distribution:
Christopher Long, SEA Field Representative
Debra Weiss Ford, Esq.
Nancy E. Oliver, Esq.