



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

**Rochester Municipal Employees Association**

v.

**City of Rochester**

**Case No. G-0075-2**

**Decision No. 2010-140**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: August 5, 2010

Appearances: John S. Krupski, Esq., Rochester Municipal Employees Association

Thomas J. Flygare, Esq., City of Rochester

Background:

The Association filed an unfair labor practice complaint against the City on June 8, 2010. The Association claims that the City committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (c), (e), and (g) when it unilaterally reclassified certain bargaining unit positions from full time with benefits to part time without benefits, changed the terms and conditions of employment for these positions, directly negotiated with the bargaining unit members, and refused to negotiate the changes with the Association.

The City denies that it committed an unfair labor practice. The City asserts that changing the positions from full time to part time did not constitute reclassification and that it acted within its managerial prerogative when it restructured the positions.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the City committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (c), (e), and (g) when it unilaterally changed the bargaining unit positions from full time with benefits to part time without benefits and when it refused to negotiate the changes with the Association?

#### 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 City, 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 parties shall prepare and file a final Statement of Stipulated Facts on or before **August 12, 2010.**

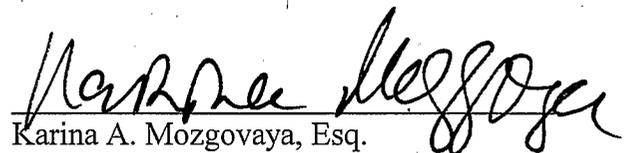
3. The parties shall file any amendments to, or deletions from, their Witness and Exhibit lists on or before **August 12, 2010**.
4. The parties shall pre-mark any exhibits prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

#### 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 on **August 17, 2010**, beginning at **9:00 a.m.**, at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 4 hours.

So ordered.

August 5, 2010

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

Distribution:  
John Krupski, Esq.  
Thomas J. Flygare, Esq.