



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Council 93, Local 3657, Windham Police Dept. Employees

v.

Town of Windham

Case No. G-0165-1
Decision No. 2011-118

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: April 22, 2011¹

Appearances: Karen E. Clemens, Esq. for the AFSCME, Council 93, Local 3657,
Windham Police Department Employees

Anne G. Scheer, Esq. for the Town of Windham

Background:

The Union filed an unfair labor practice complaint against the Town on March 4, 2011 claiming that the Town committed an unfair labor practice in violation of RSA 273-A:5, I (b), (e), (g), and (i) when the Police Chief distributed the Professional Standards Operations Directive directly to the members of the bargaining unit and refused to negotiate the Directive with the Union. The Union also argues that the Directive is contrary to the terms and conditions of employment set forth in the parties' collective bargaining agreement. The Union requests that the PELRB find that the Town violated RSA 273-A:5, I (b), (e), (g), and (i), and order the Town to cease and desist from such actions, to recognize the Union as the exclusive representative of the affected employees, to post the findings of the PELRB for 30 business days, and to make the

¹ The parties filed a Joint Pre-Hearing Worksheet on March 29, 2011.

Union whole for any costs and expenses incurred to pursue this complaint. The Town denies the charges.

ISSUE FOR DETERMINATION BY THE BOARD

Whether the Town committed an unfair labor practice in violation of RSA 273-A:5, I (b), (e), (g), and (i) when the Police Chief distributed the Professional Standards Operations Directive directly to the members of the bargaining unit and refused to negotiate the Directive with the Union.

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 Union, 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. At the pre-hearing conference the parties indicated that they are presently discussing resolution of this matter and jointly requested the PELRB to postpone the adjudicatory hearing currently scheduled for May 19, 2011 until September, 2011 to allow parties time to resolve this matter. The parties' request is granted. The adjudicatory hearing scheduled

for May 19, 2011 is hereby cancelled. There shall be no further activity in this matter unless one of the parties submits a filing seeking a hearing or other appropriate relief on or before **September 1, 2011** at which time the request and any responsive filings will be reviewed and a further order will be issued. In the absence of such filing or in the event the parties notify the board that this matter has otherwise resolved, it shall be dismissed. The parties shall immediately notify the board of any settlement.

HEARING

The adjudicatory hearing scheduled for May 19, 2011 is cancelled. This case shall be dismissed after **September 1, 2011** unless a party submits a filing seeking a hearing or other appropriate relief on or before **September 1, 2011** at which time the request and any responsive filings will be reviewed and a further order will be issued.

So ordered.

April 22, 2011


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

Distribution:

Karen E. Clemens, Esq.
Steven Lyons, Staff Representative, AFSCME
Mark T. Broth, Esq.
Anne G. Scheer, Esq.
David Sullivan, Town Administrator, Windham