



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Monadnock Regional School District

v.

Monadnock District Education Association/NEA-NH

Case No. E-0028-5
Decision No. 2012-004

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 4, 2012¹

Appearances: Margaret-Ann Moran, Esq. for the Complainant
Michelle Couture, UniServ Director, for the Respondent

Background:

The District filed an unfair labor practice complaint on December 5, 2011 claiming that the Association violated RSA 273-A:5, II (f) when it requested arbitration of the District's decision to deny an employee's request to rescind the District's acceptance of her previous request to retire. The District argues that decisions as to whether to allow employees to withdraw their retirement requests are not covered by the parties' collective bargaining agreement (CBA), are within the District's management rights discretion, and, therefore, are not arbitrable. The District requests that the PELRB find that the grievance is not arbitrable and that the Association has breached the CBA in violation of RSA 273-A:5, II (f) by requesting an arbitration of non arbitrable matter; issue a cease and desist order prohibiting the arbitration of the Association's grievance; and award the District all costs and attorney's fees associated with this dispute.

¹ The parties submitted a Joint Pre-Hearing Worksheet on January 4, 2012.

The Association denies the charges and claims that the dispute is arbitrable because it involves interpretation of the CBA language concerning a notice of intent to retire. The Association requests that the PELRB find that the grievance is arbitrable; order the parties to proceed to arbitration; and deny the District's claims and requests for relief.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Association made a wrongful demand for arbitration in violation of RSA 273-A:5, II (f).

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 203.03. 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 District, the Association, 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 file their final witness and exhibit lists and a comprehensive statement of stipulated facts no later than **January 13, 2012**.
3. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

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 **January 18, 2012, 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 3 hours.

So ordered.

January 4, 2012



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

Distribution:
Margaret-Ann Moran, Esq.
Michelle Couture, UniServ Director