



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Local 2715, Hillsborough County Nursing Home Employees

v.

Hillsborough County Nursing Home

Case No. G-0049-27
Decision No. 2012-072

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: April 3, 2012¹

Appearances: Karen E. Clemens, Esq. for the Complainant

Carolyn M. Kirby, Esq. for the Respondent

Background:

The Union filed an unfair labor practice complaint on February 22, 2012 claiming that the County violated RSA 273-A:4 and RSA 273-A:5, I (a), (b), (e), (g), and (h) when it refused to assent to the appointment of an arbitrator by the PELRB. The Union requests that the PELRB find that the County committed an unfair labor practice and order the County to provide to the PELRB its notice of assent to the appointment of the arbitrator, to cease and desist from interfering with its employees in the exercise of the rights conferred by RSA 273-A, to bargain in good faith, to publicly post the findings of the PELRB for 30 days, and to make the Union whole for all costs and expenses incurred to pursue this matter.

The County denies the charges and claims, among other things, that the Union failed to comply with the grievance procedure set forth in the parties' collective bargaining agreement.

¹ The parties filed a Joint Pre-Hearing Worksheet on March 23, 2012.

The County requests that the PELRB dismiss the charges.

ISSUE FOR DETERMINATION BY THE BOARD

Whether the County violated RSA 273-A:4 and RSA 273-A:5, I (a), (b), (e), (g), and (h) when it refused to assent to the appointment of the arbitrator by the PELRB.

WITNESSES and EXHIBITS:

As outlined in the parties Joint Pre-Hearing Worksheet. 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 Union, the County 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 Union moved to continue the adjudicatory hearing currently scheduled for April 12, 2012. The County assented to this motion. The Union's motion to continue is granted. Per the parties' agreement, the adjudicatory hearing is rescheduled for **August 2, 2012**. A rescheduling notice shall issue forthwith.
3. As discussed at the pre-hearing conference, should the County wish that the PELRB adjudicate its claim that the Union committed an unfair labor practice by making a wrongful demand to arbitrate, it would be necessary for the County to file an unfair labor practice complaint accompanied by a \$60 filing fee in accordance with RSA 273-A:6, II.
4. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **July 23, 2012**.

5. 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.
6. The parties shall immediately notify the PELRB of any resolution of this matter in the interim.

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 2, 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 4 hours.

So ordered.

April 3, 2012


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

Distribution:
Karen E. Clemens, Esq.
Carolyn Kirby, Esq.