



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Professional Fire Fighters of Hudson, IAFF Local 3154

v.

Town of Hudson

Case No. G-0077-9
Decision No. 2012-262

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: November 29, 2012
Appearances: John S. Krupski, Esq. for the Complainant
Mark T. Broth, Esq. for the Respondent

Background:

On October 30, 2012 the Union filed an unfair labor practice complaint claiming that the Town violated RSA 273-A:5, I (h) and (i) when it refused to comply with an arbitrator's decision finding that the Town violated the past practice of paying step increases during status quo periods between contracts and ordering the Town to pay step increases during the current status quo period. The Union requests that the PELRB find that the Town committed an unfair labor practice, order the Town to comply with the arbitrator's award, and award attorney's fees to the Union.

The Town denies the charges and asserts, among other things, that the arbitrator's award is unenforceable because it is contrary to public policy and would violate the requirement of RSA 273-A:3, II (b) because the Town's legislative body was never adequately warned that in

agreeing to fund the collective bargaining agreement, it was also agreeing to fund post-expiration step increases.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town violated RSA 273-A:5, I (h) and (i) when it refused to comply with the arbitrator's award.

WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists 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 and exhibits appearing on their respective lists 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. The Town's answer, filed on November 14, 2012, contains a counterclaim alleging that the Union violated RSA 273-A:5, II (d) and (f) by seeking enforcement of the arbitrator's award. As discussed at the pre-hearing conference, the PELRB rules do not allow for filing of counterclaims. To assert a claim against the Union, the Town must file an unfair labor practice complaint in accordance with Pub 201.02. Accordingly, the Town's "counterclaim" shall be treated as an answer/defense to the Union's claims. See Pub 201.03.

3. At the pre-hearing conference, the parties jointly requested that the PELRB continue an adjudicatory hearing to allow parties additional time to file a request to submit this case on stipulated facts, exhibit, and briefs. The parties' request is granted. The hearing currently scheduled for December 13, 2012 is cancelled. The parties shall file a joint request to submit this case on stipulated facts, exhibits and briefs, if any, on or before **December 13, 2012**. Any such request shall contain a proposed schedule for submission of stipulated facts, joint exhibits, and briefs.

So ordered.

November 29, 2012


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

Distribution:
John S. Krupski, Esq.
Mark T. Broth, Esq.