



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Council 93, Local 298

v.

City of Manchester

Case No. G-0008-15
Decision No. 2013-033

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: February 27, 2013

Appearances: Karen E. Clemens, Esq. for the Complainant
Thomas I. Arnold, III, Esq. for the Respondent

Background:

On January 29, 2013 the Union filed an unfair labor practice complaint claiming that the City violated RSA 273-A:5, I (a), (b), (c), (g), (h), and (i) when it refused to recognize Fleet Maintenance new hires as bargaining unit employees covered by the parties' CBA. The Union requests, among other things, that the PELRB order the City to (1) "immediately place new hires under the CBA," (2) to cease and desist from interfering with its employees in the exercise of their rights under RSA 273-A, (3) to bargain in good faith, (4) to post the finding of the PELRB for 30 business days, and (5) to make the Union whole for all costs and expenses incurred to pursue this charge.

The City denies the charge and asserts, among other things, that the PELRB lacks jurisdiction over this case because the parties' CBA provides for final and binding arbitration and

the dispute in this case involves interpretation of the parties' CBA. The City requests that the PELRB dismiss the complaint.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the City violated RSA 273-A:5, I (a), (b), (c), (g), (h), and (i) as charged by the Union.

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 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. Given the issues in this case, the PELRB presiding officer will take official notice of the relevant PELRB Manchester certification and modification files pursuant to Pub 203.03 (d).
3. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than **March 4, 2013**.
4. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each

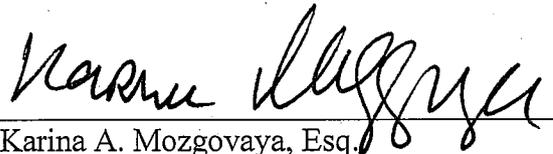
exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **March 14, 2013 at 1:00 p.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours.

So ordered.

February 27, 2013



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

Distribution:

Thomas I. Arnold, III, Esq.
Karen E. Clemens, Esq.