



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD
Professional Fire Fighters of Salem, IAFF, Local 2892

v.

Town of Salem

Case No. G-0073-2
Decision No. 2014-010

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 16, 2014

Appearances: John S. Krupski, Esq. for the Professional Fire Fighters of Salem,
IAFF, Local 2892

Marie S. McKean, Esq. for the Town

Background:

On November 22, 2013 the Professional Fire Fighters of Salem, IAFF, Local 2892 (Union) filed an Unfair Labor Practice Complaint under the Public Employee Labor Relations Act, RSA 273-A. According to the Union, in May of 2013 the parties met to discuss certain Union representational issues relating to employee Weingarten and Garrity rights and reached an agreement. According to the Union, the parties also agreed the May 2013 agreement would be reduced to writing and signed by both parties. However, the Union charges that since July, 2013 the Town has improperly refused to sign the written memorandum of understanding and has failed to provide a valid justification or explanation for its' refusal.

The Union claims the Town's conduct constitutes bad faith bargaining and is in violation of RSA 273-A:5, I (e)(to refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon

in negotiations); (g)(to fail to comply with this chapter or any rule adopted under this chapter); and (i) (to make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement entered into by the public employer making or adopting such law, regulation or rule). The Union requests that the PELRB order the Town to sign the written memorandum of understanding and provide such other relief as may be appropriate.

The Town denies the charges. According to the Town, it did not agree to sign a Memorandum of Understanding, particularly one drafted solely by the Union's attorney. The Town acknowledges that it otherwise agreed to undertake specific actions at the May 2013 like providing employees with Garrity warnings as required by law and it has fulfilled this obligation.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town's refusal to sign the Memorandum of Understanding is an unfair labor practice in violation of RSA 273-A:5, I (e), (g), or (i)?

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 Pub 203.01. 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. 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.

DECISION

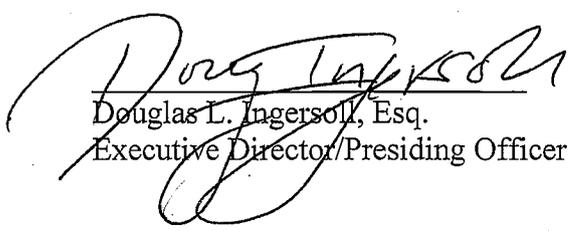
1. "Parties" means the Association, the Town or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. Counsel/representatives for the parties shall confer to consider and determine whether they can reach an agreement to resolve this matter and shall promptly provide the PELRB with notice of any such agreed upon resolution.
3. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than 10 days prior to the date of hearing.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **February 4, 2014 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

Date: 1/16/2014



Douglas L. Ingersoll, Esq.
Executive Director/Presiding Officer

Distribution: John S. Krupski, Esq.
Marie S. McKean, Esq.

