



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**New Hampshire Troopers Association**

v.

**State of New Hampshire, Department of Safety,  
Division of State Police**

**Case No. G-0097-11  
Decision No. 2014-031**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: February 6, 2014

Appearances: John S. Krupski, Esq. for the Complainant

Marta Modigliani, Esq. for the Respondent

Background:

On December 23, 2013, the New Hampshire Troopers Association (NHTA) filed an unfair labor practice complaint claiming that the State of New Hampshire, Department of Safety, Division of State Police (DOS) violated RSA 273-A:5, I (a), (g), (h), and (i) when it terminated Trooper Lovejoy's employment while she was on approved sick leave, which was granted under the sick leave bank provision of the CBA. The NHTA requests that the PELRB order the DOS to cease and desist from any further violations, to reinstate Trooper Lovejoy with back pay and benefits, and to make her whole.

The DOS denies the charges and asserts the following: (1) Trooper Lovejoy was terminated for disciplinary reasons pursuant to the Division of Personnel Rule Per 1002.08(b)(2) allowing the employer to dismiss an employee for the loss of required certification; (2) prior to the Trooper's termination, the Police Standards and Training Council suspended her police

officer certification; and (3) the parties' CBA reserves to the DOS the right to discharge employees. The DOS also argues, among other things, that the PELRB lacks jurisdiction over this case because Tr. Lovejoy was terminated pursuant to the personnel rules, and not the CBA, as the CBA does not cover discipline and the NHTA has already appealed Tr. Lovejoy's termination with the Personnel Appeals Board. The DOS requests that the PELRB dismiss the complaint and declare that the DOS did not commit an unfair labor practice.

#### ISSUES FOR DETERMINATION BY THE BOARD

Whether the DOS violated RSA 273-A:5, I (a), (g), (h), and (i) as charged by the NHTA.

#### 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.

#### DECISION

1. "Parties" means the NHTA, the DOS or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. As discussed at the pre-hearing conference, the parties shall attempt to resolve the issue of confidentiality of medical records through stipulations. Any motions/requests concerning this issue shall be filed no later than 10 days prior to the date of hearing.

3. At the pre-hearing conference, the parties moved to continue the adjudicatory hearing currently scheduled for February 18, 2014. The parties' request is granted. The adjudicatory hearing is rescheduled for March 27, 2014 at 8:30 a.m.
4. 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.
5. 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 27, 2014 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 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.

February 6, 2014

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

Distribution:  
John S. Krupski, Esq.  
Marta Modigliani, Esq.