



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Teamsters Local Union 633

v.

State of New Hampshire, Department of Corrections

Case No. G-0109-11
Decision No. 2014-159

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: June 24, 2014

Appearances: William R. Cahill, Jr., Esq., for the Complainant

Rosemary Wiant, Esq., for the Respondent

Background:

On May 21, 2014 the Teamsters Local Union 633 (Union) filed an unfair labor practice complaint claiming that the State of New Hampshire, Department of Corrections (State) violated RSA 273-A when it forced employees to work overtime and disciplined them for refusing to work. The Union claims that, by forcing employees to work excessive hours, the State "forced employees to work in an unsafe manner in violation of PPD 2.02 which [addresses] the safe working conditions of the employees and then disciplin[ed] them for refusing such dangerous assignments." The Union also claims that the State violated RSA 273-A when it failed to staff the State Personnel Appeals Board that has the authority to adjust or address employees' disciplinary action appeals. The Union requests that the PELRB order the State to comply with the PPD and rescind disciplinary actions taken against bargaining unit employees.

The State denies the charges and asserts that "the complaint offers no facts" in support of

its allegations; that none of the allegations would constitute an unfair labor practice under RSA 273-A; and that the PELRB lacks jurisdiction over the claims involving internal corrections policy PPD 2.02 and/or lack of quorum at the Personnel Appeals Board. The State also claims that mandatory overtime is authorized under the terms of the parties' collective bargaining agreement.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the Union's claims.
2. Whether the State committed an unfair labor practice 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 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.

DECISION

1. "Parties" means the Union, the State 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 State moved to continue the adjudicatory hearing currently scheduled for July 1, 2014. The Union assented to this motion. The State's motion to continue is granted. Accordingly, the adjudicatory hearing is rescheduled for **July 24, 2014 at 8:30 a.m.** A rescheduling notice shall issue forthwith.
3. On or before July 1, 2014 the Union shall file a clarification setting forth a "clear and concise statement of the facts giving rise to the complaint, including the date, time and place of the occurrence, and the names of all persons involved in or witnessing the occurrence, *characterizing each particular act in terms of the specific provisions of RSA*

273-A:5 or RSA 273-A:6 alleged to have been violated.” See Pub 201.02 (emphasis added).

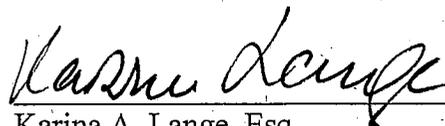
4. The State’s June 5, 2014 filing titled “Motion to Dismiss and Answer” is being treated as an Answer under Pub 201.03. A motion to dismiss, if any, shall be filed on or before July 7, 2014 as a separate motion in accordance with Pub 203.04 (a) and (b).
5. The parties shall file their final witness and exhibit lists and a joint statement of stipulated facts no later than July 14, 2014.
6. 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.
7. 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 **July 24, 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.

June 24, 2014



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

Distribution: William R. Cahill, Jr., Esq.
Rosemary Wiant, Esq.
Michael K. Brown, Esq.