



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Local 365

v.

City of Nashua Board of Public Works

Case No. G-0045-25
Decision No. 2014-226

(Corrected)

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: September 29, 2014

Appearances: Erin L. DeRenzis for the Complainant
Dorothy Clarke, Esq., for the Respondent

Background:

On August 29, 2014, the AFSCME Local 365 (Union) filed an unfair labor practice complaint alleging that the City of Nashua Board of Public Works (City) violated RSA 273-A:4 and RSA 273-A:5, I (b), (d), (e), (g), and (h) when, among other things, one of the City Public Works supervisors retaliated against a Union Steward "for exercising a concerted and protect[ed] activity," including filing a grievance and a request for information. The Union requests, among other things, that the PELRB order the City to cease and desist from violating RSA 273-A:4 and RSA 273-A:5, I (b), (d), (e), (g), and (h); to publicly post the findings of the PELRB; and to make the Union whole for all costs and expenses incurred to pursue the prohibited practice charge.

The City denies the charges and requests that the PELRB deny the Union's complaint and request for costs and expenses. The City filed a motion to dismiss asserting that even if the allegations made in the Union's complaint are all assumed to be true, the Union "does not state any facts that would support a finding that the City committed an unfair labor practice." The Union objected to the City's motion to dismiss.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the City violated RSA 273-A:4 and/or RSA 273-A:5, I (b), (d), (e), (g), and/or (h) 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 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. The parties shall file a comprehensive joint statement of stipulated facts and their final witness and exhibit lists no later than October 6, 2014.
3. 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.
4. 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 **October 14, 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.

September 29, 2014



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

Distribution: Erin L. DeRenzis
Dorothy Clarke, Esq.

