



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

**United Steelworkers of America**

v.

**Manchester Water Works**

**Case No. G-0058-23**  
**Decision No. 2015-128**

**Pre-Hearing Memorandum and Order**

Date of Conference: June 16, 2015

Appearances: Vincent A. Weners, Esq., for the Complainant

Thomas Arnold, III, Esq., for the Respondent

Background:

On March 30, 2015, the United Steelworkers of America (Union) filed an unfair labor practice complaint alleging that the City of Manchester Water Works (City) violated RSA 273-A:5, I (a), (e), (g), (h), and (i) when it used AVL/GPS device, installed in some of the department vehicles, to discipline a bargaining unit employee. The Union alleges, among other things, that the City agreed not to use the devices for disciplinary purposes when they were installed in 2012; that the City's current use of the devices for disciplinary purposes constitutes a unilateral change in terms and conditions of employment and is contrary to the past practice; and that the City refused to bargain with the Union over the impact of this change. The Union requests that the PELRB order the City to bargain with the Union over the impact of the installation and use of AVL/GPS devices and to restore "the status quo ante of the working conditions of bargaining unit employee without the installation and use of AVLS."

The City denies the charges and asserts, among other things, that the City's actions "were managerial policy with the exclusive prerogative of the public employer pursuant to RSA 273-A:1, XI"; that the installation of the devices did not affect the terms and conditions of employment; and that the PELRB has no jurisdiction because the parties' CBA provides for final and binding arbitration and the issue has already been decided by the arbitrator. The City requests that the PELRB deny and dismiss the complaint with prejudice.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the Union's claims.
2. Whether the City violated RSA 273-A:5, I (a), (e), (g), (h), and/or (i) as charged by the Union.

#### 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 Joint Pre-Hearing Worksheet no later than **June 23, 2015**. The Worksheet shall contain all information required under Pub 202.01 (c).
3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **July 20, 2015**. 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.
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.

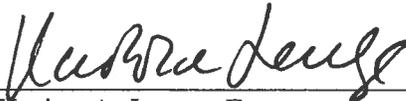
5. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

### HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **July 29, 2015, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 2 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 17, 2015

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

Distribution: Vincent A. Wenners, Esq.  
Thomas Arnold, III, Esq.