



State of New Hampshire
Public Employee Labor Relations Board

SEA/SEIU Local 1984, Belknap County Nursing Home

v.

Belknap County Commissioners

Case No. G-0234-2

Decision No. 2018-096

Pre-Hearing Memorandum and Order

Date of Conference: June 29, 2018

Appearances: Gary Snyder, Esq., for the Complainant
Paul T. Fitzgerald, Esq., for the Respondent

Background:

On May 23, 2018, the SEA/SEIU Local 1984, Belknap County Nursing Home (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Belknap County Commissioners (County) had violated RSA 273-A:5, I (a) and (b) "when it dealt directly with bargaining unit employees concerning wages rather than bargain the change" with the Union. The Union alleges that the County circulated a flyer offering a cash incentive for employees to change from the first or second shift to the third shift. The Union claims that, when it demanded that the County negotiate the offer with the Union, the County withdrew its offer and, instead, offered the incentive to non-union employees only. Later, the County notified the Union of another offer: the County wanted to provide financial incentive to qualified LNAs who worked in other areas to switch to LNA work because of a shortage of qualified LNAs. According to the Union, when it responded by requesting that the County

bargain over both incentive offers, the County threatened to withdraw all incentive offers. The Union claims that, when the Union asserted its rights to bargain, the County refused to bargain in good faith and withdrew offers it had previously made to employees and that these actions constitute a coercion, interference with, and retaliation against the Union and its employees and an interference with the administration of the Union. The Union requests that the PELRB order the County to negotiate in good faith with the Union and to make the Union and the affected employees whole.

The County denies the charge. The County asserts that it did negotiate with the Union over the incentive offers; that the offers were prompted by an immediate and short term need; that it withdrew its offers because the need had abated; and that the withdrawal of the offers does not constitute an unfair labor practice. The County requests that the PELRB dismiss the complaint and deny all relief sought by the Union.

Issues for Determination by the Board.

Whether the County violated RSA 273-A:5, I (a) and/or (b) as charged by the Union.

Witnesses and Exhibits

As outlined in the parties' Pre-Hearing Worksheets. 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 County 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 Union indicated that it inadvertently omitted from its

complaint the claim of violation of RSA 273-A:5, I (e)(to refuse to negotiate in good faith with the exclusive representative of a bargaining unit...) and that it intends to amend its complaint to correct this omission. The County did not object to this amendment. Any request to amend the complaint or answer shall be presented by a written motion no later than 15 days prior to the date of hearing. See Admin. Rule Pub 201.04 (a) and (b).


3. The parties shall exchange and file a statement of stipulated facts and their final witness and exhibit lists no later than 10 days prior to the date of hearing.
4. The requirement that the parties file copies of proposed exhibits prior to the date of 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 copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

Hearing

The County filed an assented to motion to continue the hearing scheduled for July 30, 2018. The motion to continue was granted. See PELRB Decision No. 2018-082 (June 13, 2018). The new hearing date will be established by a subsequent notice. 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 ten days prior to the date of hearing.

So ordered.

Date: 7/9/2018



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

Distribution: Gary Snyder, Esq.
Paul T. Fitzgerald, Esq.