



**State of New Hampshire**  
Public Employee Labor Relations Board

**Teamsters Local 633**

v.

**Town of Loudon**

**Case No. G-0273-2**  
**Decision No. 2018-128**

Pre-Hearing Memorandum and Order

Date of Conference: August 20, 2018

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

Nathan C. Midolo, Esq., for the Respondent

Background:

On July 20, 2018, the Teamsters Local 633 (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act asserting that the Town of Loudon (Town) had violated RSA 273-A:5, I (a) and (b) when it attempted to “intimidate and discourage the employees from exercising their right to form a union.”<sup>1</sup> The Union alleges, among other things, that the Town Fire Chief continually questioned his employees about their union activity, discouraged the employees from joining a union, and acted in an aggressive and intimidating manner in an attempt to discourage employees from forming a union. The Union also alleges that the Town Police Chief disciplined an employee for an incident that took place several years ago

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<sup>1</sup>The Union filed a petition for certification on June 6, 2018 seeking to represent certain employees of the Town’s Police and Fire Departments. Town objected to this petition. The hearing on the Town’s objection is scheduled for August 22, 2018.

in an attempt to discourage the employees from forming a union. The Union requests that the PELRB order the Town to cease and desist from violating the employees' right to form a union.

The Town denies the charges. The Town asserts that, although the Fire Chief did talk to the employees about the pros and cons of forming a union, such conversation does not constitute a violation because, under the *Appeal of American Fed'n of State County & Min. Employees*, 121 N.H. 944 946 (1981), employers are permitted to express their views, argument, and opinions regarding unions. The Town also asserts that the Fire Chief asked employees about their possible inclusion in a proposed bargaining unit in order to compile an accurate list of employees required by the PELRB, and not to discourage the formation of a union. The Town further claims that the discipline issued by the Police Chief was unrelated to the Union's organizing efforts and stemmed from the finding of misconduct which occurred in 2014 but has not been discovered until 2017. The Town argues that the Union has failed to state a claim upon which relief may be granted and requests that the PELRB dismiss the complaint.

Issues for Determination by the Board.

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

Witnesses and Exhibits

As outlined in the 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 Town 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 statement of stipulated facts and exchange and file their final witness and exhibit lists no later than 10 days prior to the date of hearing.
3. 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

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **October 4, 2018, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 5 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.

Date: 8/20/2018

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

Distribution: William R. Cahill, Jr., Esq.  
Barton L. Mayer, Esq.  
Nathan C. Midolo, Esq.

