



State of New Hampshire
Public Employee Labor Relations Board

Teamsters Local 633/Plaistow Town Employees

and

Town of Plaistow

Case No. G-0061-10

Decision No. 2019-080

Pre-Hearing Memorandum and Order

Date of Conference: April 9, 2019

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

Eric A. Maher, Esq., for the Respondent

Background:

On February 20, 2019, the Teamsters Local 633/Plaistow Town Employees (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the Town of Plaistow (Town) had committed an unfair labor practice when it retaliated against Police Captains after the Union filed a modification petition to add the Captains to the existing bargaining unit.¹ The Union alleges, among other things, that immediately after it filed the petition to add the Captains to the town employees' bargaining unit, the Interim Police Chief (Chief) (1) stripped Captain Eiro of his supervisory responsibilities over the patrol division, (2) changed Captain Eiro's terms and conditions of employment by taking away his take-home cruiser and ordering him not to leave the building without the Chief's knowledge, (3) stripped

¹On January 25, 2019, the Union filed with the PELRB a modification petition (Case No. G-0061-9) seeking to add the position of Police Captain to the existing town employees' bargaining unit. See PELRB Decision No. 2010-193.

the Captains of their supervisory authority over subordinate officers, (4) sent a memo to all personnel instructing them to disregard Captain Eiro's January 24, 2019 directive, (5) prohibited the Captains from communicating with police personnel via email, memos, correspondences and/or directives without the Chief's prior approval, (6) refused to allow the Captains to attend a previously scheduled training required to maintain their certification, and (7) notified the Captains that he intended to change their work hours. The Union asserts that the Town's actions were intended to discourage the Captains from joining the town employees' bargaining unit and to harass the Captains in retaliation for the filing of the modification petition. According to the Union, these actions constitute a violation of RSA 273-A:5, I (a), (b), (c), and (d). The Union requests that the PELRB order the Town to cease and desist from violating the status quo and rescind any and all changes implemented since the initial filing of the modification petition.

The Town denies the charge and asserts, among other things, that the Chief initiated the process of institutional changes in the Police Department before the Union filed the modification petition, and that the Chief took the complained of actions based on his determination of the best interests of the Department and not in retaliation. The Town also claims that the Union has not complied with the grievance procedure set forth in the town employees' collective bargaining agreement or with the grievance procedure set forth in the Town's Personnel Policies. The Town requests that the PELRB dismiss the complaint for failure to exhaust administrative remedies and find that the Town did not engage in an unfair labor practice.

Issues for Determination by the Board

Whether the Town violated 273-A:5, I (a), (b), (c), and/or (d) 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.

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. On March 19, 2019, the Union filed an assented to motion to continue the hearing. This motion was granted on March 20, 2019. See PELRB Decision No. 2019-060. A new hearing date shall be established in a subsequent notice. As discussed at the pre-hearing conference, on or before **April 16, 2019**, the parties shall file with the PELRB a list of all dates within the two-week period commencing **May 20, 2019** on which both parties are available for a hearing.
3. The parties shall exchange and file with the PELRB final lists of witnesses and exhibits and a statement of stipulated facts no later 10 days prior to the date of hearing. All non-joint exhibits on the lists shall be pre-marked as either "ID" (if objected to) or "Full by Agreement." 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 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.

5. 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.

Date: 4/9/2019

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

Distribution: William R. Cahill, Jr., Esq.
Eric A. Maher, Esq.
