



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

**Peter Moisakis**

v.

**Town of Hampton Board of Selectmen**

**Case No. G-0290-1**  
**Decision No. 2020-076**

Pre-Hearing Memorandum and Order

Date of Conference: March 31, 2020

Appearances<sup>1</sup>: Peter Perroni, Esq., for the Complainant

Thomas M. Closson, Esq., for the Respondent

Background:

On December 20, 2019, Peter Moisakis, a police officer employed by the Town of Hampton, filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the Town had violated RSA 273-A:5, I (a), (c), (g), (h), and (i) when it disciplined Moisakis without just cause and when it refused to allow him to present his basis for contesting the discipline to the Board of Selectmen (BOS) in violation of the collective bargaining agreement (CBA) between the Town and the Hampton Police Association (Union). Moisakis alleges, among other things, that: (1) he is “a member of a bargaining unit covered by a collective bargaining agreement between the Hampton Police Association and the Hampton Board of Selectmen”; (2) in April, 2019, he was disciplined without just cause; (3) Moisakis and

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<sup>1</sup> The pre-hearing conference was conducted telephonically.

the Union filed a discipline-related grievance; (3) the grievance was denied at steps one and two; (4) the “Union then requested that the Respondent schedule a meeting with a the Board of Selectmen so that Moisakis could personally present his grievance to the Board”; (5) the “Respondent advised both the Union and Moisakis that it was denying the request for a hearing to contest the discipline on the grounds that Moisakis did not have standing, individually, to pursue the grievance”; and (6) the Town’s imposition of discipline and refusal to allow Moisakis to contest it before the BOS constitute an unfair labor practice. Moisakis requests, among other things, that the PELRB: (1) order the Town “to cease and desist from its unlawful behavior”; (2) order the Town “to remove all punishment from his record”; and (3) “make him whole in every way, including attorney fees and costs...”

The Town denies the charge and asserts, among other things, that the Union did not pursue the grievance beyond the first two steps and, instead, notified the Town after the Town Manager’s denial at step two that “the grievance process was now being pursued by Moisakis individually.” The Town also asserts that the PELRB does not have jurisdiction over the complainant’s claims because Moisakis lacks standing to pursue the grievance or a ULP claim individually. The Town argues that only the Union is entitled to pursue either the underlying contractual grievance or a complaint to the PELRB and that “[a]ny claim validly raised under the contractual grievance process has now been abandoned.” The Town requests that the PELRB dismiss the complaint and award the Town its reasonable costs, including its attorney’s fees.

The Town has also filed a motion to dismiss raising arguments about Moisakis’ standing to maintain this complaint given the terms of the CBA grievance procedure. The Town maintains the Union has exclusive authority to decide the extent to which a grievance is prosecuted and whether any related unfair labor practice is filed. The Town argues that the Union abandoned the underlying grievance and that Moisakis does not have any right, or standing, to file and maintain

this complaint. Moisakis has objected, arguing, among other things, that he has a statutory right to maintain this action.

Issues for Determination by the Board

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

Decision

1. "Parties" means Moisakis, 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. During the pre-hearing conference, the Town requested additional time to file a supplemental brief in support of its motion to dismiss. The Town's request is granted. The Town shall file a supplemental brief on or before **April 14, 2020**. Any response to the supplemental brief shall be filed no later than **April 28, 2020**.
3. As discussed at the pre-hearing conference, on or before May 4, 2020, the parties shall provide four proposed hearing dates in July, 2020 acceptable to both parties.
4. The parties shall exchange and file with the PELRB final lists of witnesses and exhibits and a statement of stipulated facts no later than 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.
5. 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.

So ordered.

Date: 4/1/2020

/s/ KARINA LANGE  
Karina A. Lange, Esq.  
Staff Counsel/Hearing Officer

Distribution: Peter Perroni, Esq.  
Thomas M. Closson, Esq.