



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

**Ralph Mecheau, SEA Chapter 54 Vice President**

v.

**State of New Hampshire, Liquor Commission**

**Case No. G-0202-8**

**Decision No. 2021-159**

Pre-Hearing Memorandum and Order

Date of Conference: September 15, 2021

Appearances: Gary Snyder, Esq., for the Complainant

Stacie M. Moeser, Esq., and James C. Vara, Esq., for the Respondent

Background:

On August 13, 2021, Ralph Mecheau, SEA Chapter 54 Vice President, filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the State of New Hampshire, Liquor Commission (NHLC) had violated RSA 273-A:5, I (a)(to restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter), (b)(to dominate or to interfere in the formation or administration of any employee organization), and (c)(to discriminate in the hiring or tenure, or the terms and conditions of employment of its employees for the purpose of encouraging or discouraging membership in any employee organization) when it removed Mr. Mecheau from his job in retaliation for "voicing union concerns" to the NHLC and when it attempted to interfere with how the Union conducted its communications. Mr. Mecheau alleges the following, among other things: (1) in July, 2021, the

NHLC sent a newsletter to the employees containing, among other articles, a message for positivity in the workplace suggesting that employees "should try to focus less on the struggles they are facing in their jobs such as short staffing, and attempt to focus on the positives of working" for the NHLC; (2) the newsletter solicited comments from the employees and provided the email address for the comments; (3) Mr. Mecheau solicited input from other union members and leaders and, on August 5, 2021, sent a response/comments to the email address indicated in the newsletter, which he signed "Ralph Mecheau V.P. Chapter 54 Liquor Retail SEA/SEIU Local 1984"; (4) the response criticized the positivity message and offered recommendations as to potential topics for newsletter articles; (5) later that day, he was informed that he was no longer authorized to work at the store; (6) when he inquired as to his employment status, the NHLC Human Resources Chief Administrator informed him that he had been removed from the workplace until further notice based upon his response to the newsletter; and (7) the NHLC administration met with the Union leadership to discuss its concerns regarding Mr. Mecheau's actions and stated, among other things, that Mr. Mecheau's response to the newsletter violated the policy on civility in the workplace and that the Union should "exercise greater control over what its officers send out." According to the complainant, he acted in his capacity as a union representative, his response to the newsletter was not vulgar, obscene or otherwise inappropriate, and it was an exercise of the rights under RSA 273-A and a protected union activity. The complainant requests that the PELRB find that the NHLC committed an unfair labor practice when it retaliated against him for "voicing union concerns" to the NHLC in a manner requested by the NHLC itself; order the NHLC to make the complainant whole regarding lost wages, and order the NHLC to cease and desist from retaliating against him for union activities, including the filing of this complaint.

The NHLC denies the charges. The NHLC asserts, among other things, that (1) Mr. Mecheau's response to the newsletter constituted a potential violation of the State of New Hampshire Respect and Civility in the Workplace Policy (Civility Policy) and the NHLC's internal P-101 policy, which the NHLC was required to investigate; (2) Mr. Mecheau's removal from the workplace was not in retaliation for his union activity but rather for the purpose of investigation of a potential violation of the Civility Policy; (3) Mr. Mecheau's response to the newsletter was not identified as a "Union Property," as required under the parties' collective bargaining agreement and the Union leadership wasn't able to confirm that Mr. Mecheau's response to the newsletter was a union-approved communication; (4) the response to the newsletter was not filed on behalf of the Union but was, instead, an expression of personal views; (5) the PELRB does not have jurisdiction over the application or interpretation of the Civility Policy, employee discipline, or RSA Chapter 98-E; and (6) the complainant failed to allege any facts to demonstrate violations of RSA-A:5, I (a), (b), or (c).

#### Issues for Determination by the Board

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

#### Decision

1. "Parties" means Ralph Mecheau, the NHLC, and/or their counsel/representatives appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. On September 13, 2021, the complainant filed a Motion to Amend Unfair Labor Practice Complaint. The NHLC did not assent to the motion because the complainant did not agree to the NHLC's related proposal to extend the hearing timeline. The complainant's motion

to amend is granted pursuant to Admin. R. Pub 201.04 (b). An answer to the amended complaint, if any, shall be filed no later than **September 28, 2021**.

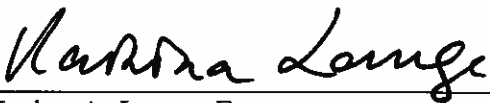
3. At the pre-hearing conference, the NHLC indicated that, if the motion to amend is granted, it would need additional time to prepare for the hearing. If the NHLC wishes to request an extension to hearing timeline based on the amendment of the complaint, it shall file, on or before **September 22, 2021**, a motion to continue containing a detailed explanation of the reasons why the amended complaint requires additional time to prepare for the hearing.
4. The parties shall exchange and file with the PELRB final lists of witnesses and exhibits no later than **September 30, 2021**. 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. As discussed at the pre-hearing conference, the parties shall file a detailed statement of stipulated facts, containing all relevant non-disputed facts, including among others, background information, general information regarding NHLC newsletters, and any relevant employment/union experience of witnesses, no later than **September 30, 2021**.
6. 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 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, the hearing in this case will be held on **October 7, 2021, at 8:30 a.m.** at the offices of the PELRB in Concord. 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: 9/16/2021

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

Distribution: Gary Snyder, Esq.  
James C. Vara, Esq.  
Stacie M. Moeser, Esq.  
Francis Fredericks, Esq.