



State of New Hampshire
Public Employee Labor Relations Board

AFSCME Council 93

and

Town of Hampstead

Case No. G-0298-1

Decision No. 2022-004

Order

The Public Employee Labor Relations Board (PELRB) recently conducted a representation election in the above captioned matter. During the tally of ballots, the Town challenged the ballot cast by Nicholas Genthner, claiming he has not worked since approximately mid-August, 2021 and therefore should be treated as a former employee and/or an irregular employee at best. Genthner's ballot was accordingly placed in a challenge ballot envelope with the requisite notations and set aside. The tally of the remaining ballots revealed that Genthner's ballot would not affect the outcome of the election, and therefore the challenge did not have to be resolved. As reflected in the PELRB's *Report of Election and Tally of Ballots* (December 29, 2021), a majority of the ballots were cast for AFSCME Council 93.

At this juncture, the next step is normally the issuance of a Certification of Representative and Order to Negotiate. However, per RSA 273-A:8, I, the PELRB cannot certify a bargaining unit with less than ten employees. See *Appeal of Town of Deerfield*, 162 N.H. 601 (2011) and *State Employees Association of N.H., Local 1984 v. Town of Ashland*, PELRB Decision No. 1999-120 (November 23, 1999). If the Town's characterization of Genthner as a

former employee and/or irregular employee at best is correct, it will mean there are less than ten employees in the bargaining. Therefore, a determination of Genthner's status is now required in order for the PELRB to decide whether it can issue a Certification of Representative and Order to Negotiate.

It should be a relatively simple matter for the parties to file the relevant paperwork necessary to allow the PELRB to make a decision on the question. Accordingly, on or before **January 21, 2022** the parties shall prepare and file a joint stipulation addressing at least the following:

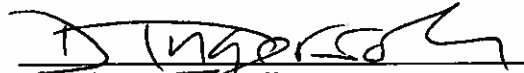
1. Genthner's work history for the Town since August 1, 2021, inclusive of the information reported on Appendix One to PELRB Decision No. 2021-150 (September 8, 2021); and
2. Genthner's employment status with the Town, or elsewhere, since August 1, 2021.

A further order will issue as appropriate and necessary after the joint stipulation is filed.

So ordered.

Date:

1/12/2022


Douglas L. Ingersoll, Esq.
Executive Director/Presiding Officer

Distribution: Sean Cronin, Esq.
Robert J. Van Campen, Esq.
Peter C. Phillips, Esq.