



State of New Hampshire
Public Employee Labor Relations Board

State Employees' Association of NH, SEIU Local 1984

v.

City of Franklin

Case No. G-0091-3

Decision No. 2022-162

Pre-Hearing Memorandum and Order

Date of Conference: October 13, 2022

Appearances: Gary Snyder, Esq. for the State Employees' Association of NH,
SEIU Local 1984

Paul Fitzgerald, Esq. and Kyle W. T. Amell, Esq. for the City of
Franklin

Background:

On August 29, 2022, the State Employees' Association of NH, SEIU Local 1984 (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act against the City of Franklin. The Union claims that the City violated RSA 273-A:5, I (g)(to fail to comply with this chapter or any rule adopted under this chapter) and (h)(to breach a collective bargaining agreement (CBA)) when it terminated a bargaining unit employee (1) without just cause in violation of CBA Article 16, (2) without notice to the Union or to the employee or a written description of the alleged violations in violation of CBA Article 17, and (3) without "convening a Loudermill hearing¹ prior to the termination." The Union also asserts that, after the employee grieved the termination, the City refused to hold a hearing with the employee thereby "rendering

¹ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

the grievance process unworkable." The Union requests that the PELRB reinstate the terminated employee, award back pay for lost wages and benefits, and order the City to abide by the terms of the CBA.

The City denies the charges and asserts that the Union, and not the City, abruptly terminated discussions concerning the resolution of the grievance when the City asked for supporting calculations/justification of the grievant's financial demand. The City asserts that the appropriate remedy is the dismissal of this complaint and an order requiring the Union to return to the grievance process.

Issues for Determination by the Board

Whether the City violated RSA 273-A:5, I (g) and/or (h) as charged by the Union.

Decision

1. "Parties" means the Union, the City, and/or their counsel/representatives appearing in this case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The Union filed an assented to motion to continue the October 28, 2022 hearing. This motion was granted. See PELRB Decision No. 2022-158. The hearing in this case is hereby rescheduled for **November 18, 2022, at 8:30 a.m.** A notice of hearing shall issue.
3. Based upon the discussion at the pre-hearing conference, there is a potential for the parties to resolve this dispute by agreement. Accordingly, the parties shall meet and confer, in a timely manner, in a good faith attempt to resolve this dispute and shall report to the PELRB the outcome of these discussions no later than **October 28, 2022**. A WebEx status conference will be scheduled for **November 4, 2022** in the event a report is not filed by the deadline.

4. A statement of stipulated facts shall be filed on or before **November 8, 2022**.
5. The parties shall exchange and file with the PELRB final lists of witnesses no later than **November 8, 2022**. 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.
6. The parties shall exchange and file with the PELRB final lists of exhibits no later than **November 8, 2022**. Exhibits shall be pre-marked in the upper right-hand corner as Joint, Union, or City. Joint and Union exhibits shall be marked numerically. City exhibits shall be marked alphabetically. Exhibits pre-marked for identification only shall be marked as in the following example: "Union Ex.1 (ID)." Exhibits to be admitted without objection shall be pre-marked as in the following example: "Union Ex. 2." The exhibit lists must also indicate whether an exhibit is pre-marked for identification only or is to be admitted without objection as shown in the example below:

Union Exhibit List:

Union Ex. 1 (ID) Jan. 1 2001 email to City

Union Ex. 2 Jan 5, 2001 email to City

7. The requirement that the parties file copies of proposed exhibits prior to the date of hearing is suspended, and the parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall 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.

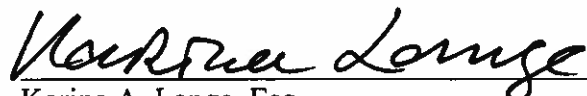
Hearing

Unless otherwise ordered, the hearing in this case will be held on **November 18, 2022, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 3 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: 10/14/2022


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

Distribution: Gary Snyder, Esq.
Paul Fitzgerald, Esq.
Kyle W. T. Amell, Esq.