



State of New Hampshire
Public Employee Labor Relations Board

Teamsters Local 633

v.

Northwood Fire Department

Case No. G-0320-1
Decision No. 2023-125

Pre-Hearing Memorandum and Order

Date of Conference: June 9, 2023

Appearances: Alyssa Croteau for the Teamsters Local 633

Nicholas J. Blei, Esq. and Mark T. Broth, Esq. for the Northwood Fire Department

Background:

On May 10, 2023, the Teamsters Local 633 (Union), filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the Town of Northwood Fire Department (Town) 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"). The Union alleges as follows: (1) on May 3, 2023, Fire Captain Schaub informed the Fire Chief and the Town Board of Selectmen of the intent to organize employees of the Fire Department; (2) Captain Schaub and Firefighter Michael McGinn were apparently involved in

union organizing activity; (3) on May 4, 2023, Fire Chief began questioning the validity McGinn's Firefighter certification and eventually informed Captain Schaub that McGinn would not be allowed to return to work until he provided proof of Firefighter certification; (3) McGinn had been employed by the Fire Department for 3 years and the Chief had not question the validity of his Firefighter certification prior to May 4, 2023; (4) on May 8, 2023, McGinn presented proof of his Firefighter certification to the Chief, but was not allowed to return to duty; and (5) although McGinn also has a valid EMT certification, he is no longer allowed to respond to calls as an EMT. The Union also alleges that on May 8, 2023 Captain Schaub's administrative privileges to maintain the department schedule, as he has done for many years, were revoked. The Union claims that the Chief retaliated against Firefighter McGinn and Captain Schaub for their union organizing activity¹ and requests that the PELRB order the Town and the Chief to cease and desist from retaliatory activities.

The Town denies the charges and asserts, among other things, that Captain Schaub informed the Chief of his concerns regarding McGinn's certification status on April 3, 2023 – one month prior to the notice of employees' intent to organize; and that the Chief immediately directed Captain Schaub to investigate. The Town also claims that McGinn's placement on administrative leave was based on his inability to produce valid Firefighter I and/or II certification or an official transcript from Maryland Fire Institute, where he allegedly received his Firefighter certification, and not on his organizing activity. Furthermore, according to the Town, McGinn's "inability to produce a valid certification despite holding himself out as a certified firefighter for three years calls his honesty and integrity into question, creates potential liability for the Town and poses safety risks to the general public." The Town also asserts that Captain Schaub's scheduling

¹On May 23, 2023 Teamsters Local 633 filed with the PELRB a petition for certification seeking to represent certain employees of the Northwood Fire Department.

privileges were revoked because he violated policy by scheduling McGinn for Firefighter/EMT shifts after McGinn had been placed on administrative leave and without the Chief's knowledge or approval.

Issues for Determination by the Board

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

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. During the per-hearing conference, the Town indicated that McGinn will be returned to the work schedule as soon as the Town receives an official transcript from the Maryland Fire Institute showing successful completion of courses necessary to obtain a Firefighter I and/or II certification. Therefore, in an effort to resolve a portion of this case, the Union shall use its best efforts to immediately obtain and provide this transcript to Attorneys Broth and Blei and to the Chief. On or before **June 28, 2023**, the parties shall file a status report advising the PELRB of whether the transcript has been obtained and of McGinn's employment status.
3. A statement of stipulated facts shall be filed no later than **July 3, 2023**. All non-disputed facts shall be included in this statement.
4. The parties shall also exchange and file with the PELRB final lists of witnesses no later than **July 3, 2023**. 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.

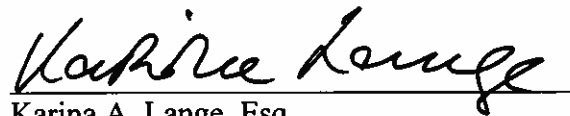
5. The parties shall exchange and file with the PELRB final lists of exhibits no later **July 3, 2023**. Exhibits shall be pre-marked in the upper right-hand corner as Joint, Union, or Town. Joint and Union exhibits shall be marked numerically. The Town exhibits shall be marked alphabetically. Exhibits 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.
6. 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 **July 12, 2023, 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: June 9, 2023



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

Distribution: Alyssa Croteau, Organizer, Teamsters Local 633
Mark T. Broth, Esq.
Nicholas J. Blei, Esq.