



State of New Hampshire
Public Employee Labor Relations Board

Teamsters Local 633 of New Hampshire

v.

Town of Hooksett

Case No. G-0181-9
Decision No. 2023-170

Pre-Hearing Memorandum and Order

Date of Conference: July 7, 2023

Appearances: James Petrillo, Field Representative, for the Teamsters Local 633

Mark T. Broth, Esq., and Nicholas J. Blei, Esq., for the Town of Hooksett.

Background:

On May 31, 2023, the Teamsters Local 633 (Union), filed an unfair labor practice complaint under the Public Employee Labor Relations Act claiming that the Town of Hooksett (Town) had violated RSA 273-A:5, I (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") and (h) ("To breach a collective bargaining agreement") when it unilaterally lowered wages of certain Department of Public Works employees by 2%. The Union argues that the Town's actions violate the parties' collective bargaining agreement (CBA). The Union also asserts that the Town engaged in impermissible direct dealing when it required new hires to sign a "commitment letter" accepting pay rate lower than the CBA

pay rate. The Union requests that the PELRB order the Town to make all affected employees whole.

The Town denies the charges. The Town asserts that in 2019, it provided written notice to the Union representative of its intent to fill open truck driver positions with applicants lacking a commercial driver's license (CDL), to extend their probationary period, and to pay them lower wages than the starting rate for new hires who possess the CDL. The Town claims that the Union representative failed to respond to this written notice and this failure constitutes "ratification by silence." The Town also filed a motion to dismiss or stay the complaint on the ground that the Union failed to exhaust the CBA grievance procedure, which provides for final and binding arbitration.

Issues for Determination by the Board

1. Whether the PELRB has jurisdiction over the Union's claims.
2. Whether the Town violated RSA 273-A:5, I 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 Union stated that it objects to the Town's motion to dismiss and indicated that it filed two grievances: (1) a grievance concerning the Town's extension of probationary period (currently at Step IV – Town Council), and (2) a grievance concerning a unilateral change in wages. The Union stated that the Town Administrator (Step III of grievance procedure) refused to process the wage-related grievance, instead allegedly suggesting that the Union file a complaint with the PELRB. However, it appears

that the parties are willing to consolidate the two grievances and continue processing them through the grievance procedure. To that end, the parties shall file a Joint Status Report regarding the wage-related (or consolidated by agreement) grievance on or before **July 12, 2023**.

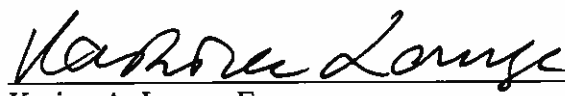
3. A statement of stipulated facts shall be filed no later than **July 12, 2023**. All non-disputed facts shall be included in this statement.
4. The parties shall also exchange and file with the PELRB final lists of witnesses, if any, no later than **July 12, 2023**. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing. "No employee serving as a witness or as counsel at a hearing shall suffer any loss of pay or benefits for having so appeared or served." Admin. Rule Pub 203.01(b).
5. The parties shall exchange and file with the PELRB final lists of exhibits no later **July 12, 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 parties shall not submit duplicative exhibits.
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.

Hearing

Unless otherwise ordered, the hearing in this case will be held on **July 18, 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 5 days prior to the date of hearing.

So ordered.

Date: 07/07/2023


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

Distribution: James Petrillo, Field Representative
Mark T. Broth, Esq.
Nicholas J. Blei, Esq.