



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

**State Employees' Association of NH, SEIU Local 1984**

**v.**

**NH Judicial Branch**

**Case No. G-0102-6**  
**Decision No. 2023-243**

Pre-Hearing Memorandum and Order

Date of Conference: September 18, 2023

Appearances: John S. Krupski, Esq., for the Complainant

Jessica A. King, Esq., and Takhmina Rakhmatova, Esq., for the Respondent

Background:

On August 9, 2023, the State Employees' Association of New Hampshire, SEIU Local 1984 (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act against the New Hampshire Judicial Branch (NHJB) claiming that it violated RSA 273-A:5, I (h) ("To breach a collective bargaining agreement") and (i) ("To make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement ...") when it refused to implement an arbitrator's award. The Union alleges that: (1) the parties' collective bargaining agreement (CBA) provides for final and binding arbitration; (2) the Union submitted a grievance on behalf of a Court Assistant II on the grounds that the NHJB unilaterally altered a past practice and divested an employee of rights under the CBA concerning longevity based compensation; (3) on April 17, 2023, Arbitrator James Cooper issued a decision

in favor of the grievant ordering the NHJB, among other things, to cease all efforts to collect previously granted longevity payments, and to restore all accrued annual and sick leave; (4) the NHJB failed to abide by the arbitrator's decision and filed a petition for declaratory judgement with the Superior Court. The Union requests that the PELRB find that the NHJB has committed an unfair labor practice and order the NHJB to abide by Arbitrator Cooper's decision and to cease and desist from further violations of the statute and the CBA.

The NHJB has not yet filed an answer to the complaint. See PELRB Decisions No. 2023-215 (granting NHJB's first motion to extend time to file answer) and No. 2023-228 (granting NHJB's second motion to extend time to file answer to September 8, 2023). On September 8, 2023, the NHJB, instead of an answer, filed a Motion to Stay Proceedings on the grounds of "judicial economy" and avoidance of "conflicting orders in parallel matters." The Union objects to the Motion to Stay asserting, among other things, that the Superior Court is without jurisdiction in this matter and that, under the principles of exhaustion of administrative remedies, the PELRB has primary jurisdiction.

#### Issues for Determination by the Board

1. Whether this case should be stayed as requested by the NHJB.
2. Whether the NHJB has improperly refused to implement the arbitrator's award in violation of RSA 273-A:5, I (h) and/or (i) as charged by the Union.

#### Decision

1. "Parties" means the Union, the NHJB or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. As discussed at the pre-hearing conference, the NHJB shall file an answer to the Union's complaint no later than **September 22, 2023**.

3. The parties agreed to submit this case for decision on stipulated facts, exhibits, and briefs and provided a proposed filing schedule. Based upon the parties' pleadings and the discussion at the pre-hearing conference, it does not appear at this time that there are any issues of relevant and material fact in dispute in this case or that an evidentiary hearing is necessary. See Admin. R. Pub 201.06 (a) and Pub 203.05 (b). The parties' agreed upon request to submit this case on stipulated facts, exhibits, and briefs is granted and the proposed briefing schedule is approved. Accordingly, the October 5, 2023 hearing is cancelled.

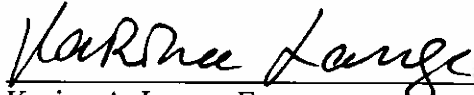
4. This case shall proceed according to the following schedule:

**October 5, 2023:** Deadline to file a statement of stipulated facts, exhibits, and opening briefs. Any objection to any stipulation or non-joint exhibit shall be addressed in the opening briefs.

**October 19, 2023:** Deadline to file reply briefs, if any.

So ordered.

Date: 09/18/2023

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

Distribution: John S. Krupski, Esq.  
Jessica A. King, Esq.  
Takhmina Rakhmatova, Esq.