



State of New Hampshire
Public Employee Labor Relations Board

Teamsters Local 633 of New Hampshire

v.

Town of Hooksett

Case No. G-0181-10
Decision No. 2023-269

Pre-Hearing Memorandum and Order

Date of Conference: October 23, 2023

Appearances: Alyssa Croteau, Trustee/Field Organizer, for the Teamsters Local 633 of New Hampshire (telephonically)

Mark T. Broth, Esq., and Hannah L. Devoe, Esq., for the Town of Hooksett.

Background:

On September 22, 2023, the Teamsters Local 633 of New Hampshire (Union) filed an unfair labor practice complaint under the Public Employee Labor Relations Act. The Union claims that, at a Hooksett Town Council meeting, Councilor John Durand made a motion to remove Union's Business Agent Keith Judge, who is also a member of the Town Council, from representing the Hooksett Department of Public Works bargaining unit during contract negotiations. The motion was seconded and the Town Council voted on it. The Union asserts that these actions were taken "in an attempt to coerce and interfere with" the bargaining unit employees' right to Union representation and the Union's right to represent its members. The Union claims that these actions constitute a violation of 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”), (e) (“To refuse to negotiate in good faith with the exclusive representative of a bargaining unit...”), and (g) (“To fail to comply with this chapter or any rule adopted under this chapter”). The Union requests that the PELRB order that Councilor Durand be “removed for his continued violations of NH Labor Law” and any other remedy.

The Town denies the charges. The Town asserts that Councilor Durand is not a public employer as defined by RSA 273-A:1, X, and that his motion was made in his capacity as an individual Council member and was an exercise of free expression of his personal point of view. The Town also argues that because Councilor Durand’s motion had failed, no action was taken against Councilor Judge which could form the basis of a claim under RSA 273-A:5. The Town also argues that the PELRB lacks authority to regulate Councilor Durand’s conduct or to remove him from his Council seat. The Town filed a motion to dismiss the complaint.

Issues for Determination by the Board

1. Whether the Town violated RSA 273-A:5, I (a), (b), (e) and/or (g).
2. Whether the PELRB has authority to grant relief requested 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. As discussed at the pre-hearing conference, the parties shall file a request to submit this case on stipulated facts, joint exhibits, and briefs on or before **October 27, 2023**. Any such request shall contain a proposed schedule for submission of stipulated facts, joint exhibits, opening briefs, and reply briefs, if any.

3. At the pre-hearing conference, the Union stated that it objects to the Town's motion to dismiss. A written objection to the motion to dismiss shall be filed no later than **October 26, 2023**.
4. In the Joint Pre-Hearing Worksheet, the Union listed "Hooksett Town Council public meeting video" as an exhibit. As discussed at the pre-hearing conference, any relevant video footage shall be submitted through stipulations, transcribed excerpts, or photographs.
5. A statement of stipulated facts and final lists of witnesses and exhibits shall be filed no later than **October 30, 2023**, if this case proceeds to a hearing.
6. 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.
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 pre-mark the exhibits and 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 **November 7, 2023, at 9:00 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: 10/23/2023


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

Distribution: Alyssa Croteau, Trustee/Field Organizer
Mark T. Broth, Esq.
Hannah L. Devoe, Esq.