

AFSCME Local 3657 v. Town of Pelham, Decision No. 2020-098 (Case No. G-0119-6).

Background: The Union claimed the Town violated RSA 273-A:5, I (a), (g), (h), & (i) because of the manner in which it processed a grievance and acted, or failed to act upon, the merits of the grievance after the grievance was denied at Steps 1 & 2. In particular, the Union claimed the Board of Selectmen (BOS) improperly failed to schedule and hold a Step 3 grievance hearing and instead scheduled a motion to dismiss hearing at the Town Administrator's request after which it denied the grievance. The Town denied the charges and claimed that the manner in which the BOS conducted its review of the grievance was proper and that the PELRB lacked jurisdiction to address the merits of the complaint because the grievance procedure provided for final and binding arbitration, which the Union failed to request.

Decision: The complaint was dismissed for lack of jurisdiction because, under the "positive assurance" standard, *Appeal of the City of Manchester*, 144 N.H. 386, 388 (1999), it could not be found, with positive assurance, that the collective bargaining agreement was not susceptible of an interpretation that covered the dispute.

Disclaimer: This summary is intended to provide a brief description of the issues in this case and the outcome. The summary is not a substitute for the decision, should not be relied upon in place of the decision, and should not be cited as controlling or relevant authority in PELRB proceedings or other proceedings.