

Peter Moisakis v. Town of Hampton Board of Selectmen, Decision No. 2020-133 (Case No. G-0290-1).

Background: A police officer employed by the Town of Hampton filed an unfair labor practice complaint claiming that the Town had violated RSA 273-A:5, I (a), (c), (g), (h), & (i) when it disciplined him without just cause and refused to allow him to present his grievance to the Board of Selectmen (BOS). Town denied the charge and filed a motion to dismiss the complaint asserting, among other things, that Moisakis was a member of a bargaining unit, for which the Union was the exclusive representative and, therefore, under the terms of the CBA between the Town and the Union, lacked standing to pursue the contractual grievance process individually. The Town argued that when the Union informed the Town that Moisakis, not the Union, will personally present his case to the BOS at step 3, it “opted to abandon the contractual grievance process” and, therefore, the Town had no further obligation either to the Union or to Moisakis.

Decision: Moisakis' claims were within the scope of a CBA which included a grievance procedure that ended in binding arbitration. Under *Appeal of Silverstein*, 163 N.H. 192, 197-98 (2012) and *Appeal of the City of Manchester*, 153 N.H. 289 (2006), neither Moisakis nor the Union had a right to bypass the negotiated grievance procedure and have contractual disputes raised in the complaint adjudicated by the PELRB. In addition, any procedural arguments about whether the disciplinary grievance was properly filed, maintained, processed, or preserved were also matters for an arbitrator to decide. Therefore, the PELRB found that it lacked jurisdiction and dismissed the complaint.

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.