

New Hampshire Troopers Association v. New Hampshire Dept. of Safety, Division of State Police, Decision No. 2021-133 (Case G-0097-28).

Background: The Union filed an unfair labor practice complaint claiming that the Division breached the parties' collective bargaining agreement and violated RSA 273-A:5, I (h) when it denied an employee's request for reimbursement of a line-of-duty-injury related leave under Article 11.9 of the parties' CBA. The Union alleged as follows: (1) Article 11.9 incorporates RSA 21-I:43-a into the CBA; (2) RSA 21-I:43-a provides for reimbursement of sick and annual leave to State employees who were injured in the line of duty "due to a hostile or overt act"; (3) the subject employee was injured while on duty due to an overt act; (4) the employee requested reimbursement of the injury-related leave; (5) the Commissioner denied his request; and (6) these actions constituted a breach of the CBA and a violation of RSA 21-I:43-a, which was "incorporated into the CBA by reference." The Division denied the charges and asserted, among other things, that (1) the statutory right for the line-of-duty-injury related leave reimbursement is established in RSA 21-I:43-a & RSA 106-B:18, independently from the CBA, and is a prohibited subject of bargaining; (2) under the statutes, the Commissioner has the exclusive and final authority to determine whether an injury received by an employee "qualifies as in the line of duty and whether it was due to a hostile or overt act or an act caused by another during the performance of duties considered dangerous in nature"; (3) this right was not bargained for; and (4) it is beyond the PELRB's jurisdiction to review a decision that is statutorily reserved to the exclusive authority of the Commissioner.

Decision: The parties did not incorporate by reference the text of RSA 21-I:43-a (or RSA 106-B:18) into the CBA. Therefore, the alleged violation of this statute cannot serve as the basis for an RSA 273-A:5, I (h) breach of CBA claim. Because the board did not otherwise have jurisdiction to review the substantive decisions the Commissioner makes under RSA 21-I:43-a (or RSA 106-B:18), the complaint was dismissed.

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.