

AFSCME Council 93 and Town of Hampstead, Decision No. 2021-150 (Case No. G-0298-1)

Background: This was an order on the Union’s motion for review of the hearing officer (HO) decision No. 2021-090, in which the HO found that the majority of the per diem Firefighters in the proposed bargaining unit were irregular employees within the meaning of RSA 273-A:1, IX (d) and excluded them from the bargaining unit. As a result, the bargaining unit failed to satisfy the statutory 10-employee minimum requirement. The Union claimed in its motion for review that three of the excluded “per diem” firefighters worked enough hours to avoid classification as persons employed irregularly.

Decision: The Board held that, based on the record, the three per-diem Firefighters at issue were not persons employed irregularly within the meaning of RSA 273-A:1, IX (d) and were all eligible for inclusion in the proposed bargaining unit, which in turn meant the ten-employee minimum was satisfied. The Union’s motion for review was granted, and the hearing officer’s decision was modified accordingly. The decision was remanded to the hearing officer to decide whether to sustain the Town's remaining objections, such as whether the captain is a supervisory employee within the meaning of RSA 273-A:8, II or a confidential employee within the meaning of RSA 273-A:1, IX (c).

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.