

AFSCME Council 93 and Town of Hampstead, Decision No. 2021-156 (Case No. G-0298-1)

Background: As directed by the Board in PELRB Decision No. 2021-050, the HO issued a supplemental order addressing the Town's remaining objections to the Union's certification petition seeking to represent Town of Hampstead Fire Department employees. The Town argued that (1) part-time per diem Firefighters were irregular and on-call employees within the meaning RSA 273-A:1, IX (d) and, therefore, were not public employees and should be excluded from the unit; (2) without part-time per diem Firefighters, the proposed unit did not satisfy a 10-employee minimum requirement under RSA 273-A:8, I; (3) the Firefighter Captain was a supervisory employee within the meaning of RSA 273-A:8, II and, therefore, should be excluded from the bargaining unit with employees he supervised; (4) the Firefighter Captain was a confidential employee within the meaning of RSA 273-A:1, IX (c) and, therefore, was not a public employee and should be excluded from the unit; (5) the proposed bargaining unit lacked a community of interest as required under RSA 273-A:8, I; and (6) certification of the proposed bargaining unit will have a negative effect on the efficiency of governmental functions.

Decision: The HO found that the Fire Captain was a supervisory employee within the meaning of RSA 273-A:8, II and, therefore, was excluded from the bargaining unit. The rest of the employees in the proposed bargaining unit shared a sufficient community of interest so that it was reasonable for them to negotiate jointly. The proposed bargaining unit contained 10 employees with the same community of interest as required under RSA 273-A:8, I. The HO ordered a secret ballot election to be conducted to determine the exclusive representative of the approved unit.

Note: Although an election was conducted in this case, the exclusive representative wasn't certified because the PELRB was informed that the unit no longer contained 10 employees. Based upon the parties' representations, some of the employees became full time while others terminated their employment and/or became irregular within the meaning of the statute.

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.