

New Hampshire Troopers Association v. NH Dept. of Safety – Division of State Police,
Decision No. 2022-016 (Case No. G-0097-29)

Background: The Union claimed that the Division had violated RSA 273-A:5, I (h)(to breach a collective bargaining agreement) when it failed to compensate a bargaining unit employee, who was ordered to attend a hearing during his off-duty hours, in accordance with the parties' collective bargaining agreement (CBA) and the existing past practice. The Division denied the charges argued there was not a binding past practice and the bargaining unit employee was properly paid two hours of overtime pursuant to CBA Article 7.6. The Union later agreed that the Division's corrections to the employee's time card were generally in accord with the CBA. However, the Union maintained that a binding past practice had established an exception in cases where a trooper has returned to off-duty status before the trooper's duty time began.

Decision: The Hearing Officer found that the evidence adduced by the Union did not satisfy the regularity and frequency of past practice requirement under *Appeal of New Hampshire Department of Corrections*, 164 N.H. 307, 309 (2012). The Union failed to prove that payment of the full four hour minimum for off-duty "Witness Testify Overtime," without reduction for any portion of the four hour minimum that covered duty time, was a regular and long-standing practice in any situation. There was scant evidence that the Division conducted itself in a manner that evidenced an acceptance of the claimed practice over a protracted period of time. As there was insufficient evidence to establish the claimed past practice, 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.