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State of New York Public Employment Relations Board Decisions from October 17, 1980

New York State Public Employment Relations Board

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State of New York Public Employment Relations Board Decisions from October 17, 1980

Keywords

NY, NYS, New York State, PERB, Public Employment Relations Board, board decisions, labor disputes, labor relations

Comments

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	#1A-10/17/80
COUNTY OF RENSSELAER,	:	<u>BOARD DECISION AND</u>
Respondent,	:	<u>ORDER</u>
-and-	:	
RENSSELAER COUNTY UNIT OF THE RENSSELAER	:	<u>CASE NO. U-4146</u>
COUNTY LOCAL 842, CIVIL SERVICE EMPLOYEES	:	
ASSOCIATION, INC., LOCAL 1000, AFSCME,	:	
AFL-CIO,	:	
Charging Party.	:	

MARVIN I. HONIG, ESQ. (GORDON R. MAYO, ESQ.,
of Counsel), for Respondent

ROEMER & FEATHERSTONHAUGH (WILLIAM F. REYNOLDS,
ESQ., of Counsel), for Charging Party

This matter comes to us on the exceptions of the County of Rensselaer (County) to the determination of the hearing officer that it improperly instituted a procedure for the inspection of employee parcels¹. The County acknowledges that it instituted the procedure, but defends its conduct by the assertion that it was a management prerogative for it to do so. This defense was rejected by the hearing officer.

1 The hearing officer dismissed the second specification of the charge which alleged that the County altered work schedules. There are no exceptions to this part of the decision.

Facts

On July 9, 1979, the County instituted a parcel inspection procedure at Van Rensselaer Manor, a nursing home facility. Under the procedure, employees were required to obtain advance written permission to leave the premises with a parcel. The written permission would be completed in duplicate. One copy of it would be forwarded to the security office and the second copy would be kept by the employee. Upon leaving the building, the employee would give his copy of the permission to a security guard who would compare it with the original. The security guard could inspect any parcel in the possession of the employee and the employee is prohibited from refusing such inspection. It is implicit in this prohibition that an employee who would not cooperate with the security guard would be subject to disciplinary action. The hearing officer so found and there are no exceptions to that finding.

The inspection program was not directed at the protection of the property of residents of the nursing home. Its purpose was to prevent pilferage of County property and to discourage employees from bringing personal property to work.

The hearing officer found that "[t]he inspection or search procedure...has but incidental effect on the public interests served by the County" and that an employee's failure to comply would be reason for disciplinary action. On these facts, he concluded that the institution of the inspection procedure was a mandatory subject of negotiation.

In its exceptions, the City argues that the hearing officer's

conclusion is in error. It further argues that, even if the hearing officer was correct, the collective agreement in effect at the time of the institution of the inspection procedure authorized the County's unilateral action. Specifically, it relies upon the management rights clause which it claims to constitute a waiver of any current right that the charging party, Rensselaer County Unit of the Rensselaer County Local 842, Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO (CSEA), may have to negotiate the matter further.²

Discussion

We affirm the findings of fact and conclusions of law of the hearing officer.

The Duty to Negotiate.

The parcel inspection procedure is a work rule which affects terms and conditions of employment. In determining whether a work rule is a mandatory subject of negotiation, the Board must strike a balance between an employer's freedom to manage its affairs and the right of employees to negotiate their terms and conditions of

2. The management rights clause provides:

"Section 1. Except as otherwise specifically provided in this Agreement, the employer shall have the customary and usual rights, powers and functions to direct the employees, to hire, promote, suspend and to take disciplinary action, and to otherwise take whatever actions are necessary to carry out the mission of the Employer pursuant to existing practices unless altered by this Agreement."

employment.³ Whether or not the work rule is enforceable by disciplinary penalties is a factor to be considered in determining the extent that the rule affects terms and conditions of employment.⁴

Considering the work rule and its enforcement as one, we determine that it has a substantial effect on terms and conditions of employment. It discourages employees from bringing personal property to work and it subjects them to searches and to discipline, and is designed to protect the County's property. Applying the appropriate balancing test, the hearing officer concluded that the interests of the employees predominated.

We agree with the hearing officer and find persuasive support for his conclusion in a decision of the NLRB in Boland Marine & Manufacturing Co., 228 NLRB No. 173; 94 LRRM 1743 (1977). In that case, the NLRB dealt with an employer's unilateral institution of a parcel inspection program which is similar to the one before us and was also designed to prevent the theft of its equipment. The NLRB found that conduct of the employer to violate its duty to negotiate changes in conditions of employment.

³ In Newspaper Guild of Greater Philadelphia v. NLRB, ___ F2d ___; 89 LC ¶12,207 (August 13, 1980), the United States Court of Appeals for the District of Columbia said:

"[W]hen there is a conflict between an employer's freedom to manage his business in areas involving the basic direction of the enterprise and the right of employees to bargain on subjects which affect the terms and conditions of their employment, a balance must be struck, if possible, which will take account of the relative importance of the proposed actions to the two parties." (footnote and citations omitted).

⁴ Newspaper Guild of Greater Philadelphia v. NLRB, supra.

Satisfaction of the duty to negotiate

Having determined that the County's unilateral action involved a mandatory subject of negotiation, we must consider its defense that, by agreeing to the contractual management rights clause, CSEA waived its right to negotiate as to a parcel inspection program during the life of the contract. Here, the management rights clause authorizes the County inter alia to discipline employees as necessary "to carry out the mission of the Employer pursuant to existing practices...." As it does not cover the institution of new procedures, it does not constitute a waiver of any right that CSEA has to negotiate as to them. We find nothing anywhere in the contract that deals with the subject of the newly instituted procedure.

NOW, THEREFORE, WE ORDER the County of Rensselaer to discontinue the inspection program herein described, as initiated by its order of July 9, 1979, and to post a notice in the form attached at all locations that are ordinarily used to communicate with its employees.

Dated, Albany, NY
October 17, 1980

Harold R. Newman
Harold R. Newman, Chairman

Ida Klaus
Ida Klaus, Member

David C. Randles
David C. Randles, Member

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APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE DECISION AND ORDER OF THE

NEW YORK STATE
PUBLIC EMPLOYMENT RELATIONS BOARD

and in order to effectuate the policies of the

NEW YORK STATE
PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

we hereby notify our employees that: The County of Rensselaer
hereby rescinds its order dated July 9, 1979
establishing a package inspection procedure
at the nursing home.

..... COUNTY OF RENSSELAER
Employer

Dated

By
(Representative) (Title)

This Notice must remain posted for 30 consecutive days from the date of posting, and must not be altered defaced, or covered by any other material.

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	#1B-10/17/80
	:	
POLICE ASSOCIATION OF NEW ROCHELLE, NEW YORK, INC.,	:	<u>BOARD DECISION AND ORDER</u>
	:	
Respondent,	:	<u>CASE NO. U-4543</u>
	:	
-and-	:	
	:	
CITY OF NEW ROCHELLE,	:	
	:	
Charging Party.	:	

RICHARD HARTMAN, ESQ. (RONALD J. DAVIS, ESQ.,
of Counsel), for Respondent

RAINS & POGREBIN, ESQS. (PAUL J. SCHREIBER, ESQ.,
of Counsel), for Charging Party

The City of New Rochelle (City) charged the Police Association of New Rochelle, New York, Inc. (Association) with a violation of its duty to negotiate in good faith in that it submitted to interest arbitration seven demands involving nonmandatory subjects of negotiation. The Association responded that each of the seven demands constituted a mandatory subject of negotiation. Determining that two of the demands involved nonmandatory subjects of negotiation, the hearing officer ordered the Association to withdraw those demands. The Association filed no exceptions to this part of the decision. The remaining five demands were determined by the hearing officer to be mandatory subjects of negotiation and she dismissed the specifications of the charge relating to them. This matter comes to us on the exceptions of the City, which asserts that the hearing officer erred in her determination that the five demands involved mandatory subjects of negotiation.

The first of the demands deals with an aspect of employee disciplinary proceedings. It provides:

"The Hearing Officer for disciplinary proceedings shall be selected from a list supplied under the rules of the American Arbitration Association, the cost of the Hearing Officer selected to be borne equally by the City and the Association. The Hearing Officer shall judge the guilt or innocence of the Employee charged and if guilty, the punishment."

The hearing officer determined that this demand is covered by the rationale of the courts in Auburn Police Local 195 v. Helsby, 62 App.Div. 2d 12, 11 PERB ¶7003 (3rd Dept., 1978); aff'd 46 NY2d 1034, 12 PERB ¶7006 (1979), which holds that employee discipline is a mandatory subject of negotiation.

In its exceptions, the City argues that Auburn is inapplicable for two reasons. First, it argues that in Auburn, the courts dealt with procedural matters concerning which Civil Service Law §75 permitted alternatives while the demand herein is for the substitution of arbitration for an exclusive statutory procedure. Second, it argues that in Auburn, the employees were given a choice of either the contractual or statutory disciplinary procedure, while here, they are not.

Neither argument is persuasive. By its terms, Civil Service Law §75 is no more exclusive in determining who should hear disciplinary charges than it is in the other procedural particulars that were at issue in Auburn. Indeed, the court supported its conclusion by citing decisions which held that matters of employee discipline could be submitted to arbitration. In Antinore v. State of New York, 49 AD2d 6, 9 PERB ¶7528 (1976), the Court held that an

employee need not be given the opportunity to choose between statutory and contractual disciplinary procedures. It said that a recognized or certified union may, in the course of reaching an agreement with an employer, waive rights of employees to resort to the statutory disciplinary procedures.

The second demand deals with work related benefits and rules. It provides:

"Employees who are required or requested to use their personal car for department business shall be entitled to, in addition to any other fee or wages received, twenty-five cents per mile from their residence to the location and back to their residence. Members shall be permitted to sign in and out by telephone call to the Desk Officer."

In its exceptions, the City directs our attention to the second sentence of the demand. It argues that the demand is not a mandatory subject of negotiation because it would interfere with its administrative supervision of its employees. In support of its position, it cites several decisions of this Board in which we ruled that demands that a public employer relinquish administrative supervision of its employees are nonmandatory. These decisions are inapposite. Here, the employer wishes to reserve to itself the right to have employees going on special assignments appear at the office before commencing their assignments, while the Association demands that the employees be given instead, the right to call in by telephone at that time. The Association's proposal would change the procedure by which the City's administrative control of its employees' attendance could be exercised. It would not eliminate the City's basic control over attendance or require the City to relinquish that control to the employees. As

a general proposition, an administrative work rule constitutes a mandatory subject of negotiation unless it has but a slight impact upon terms and conditions of employment or if it has a major impact upon managerial responsibilities that, by law or public policy, may not be shared. Newspaper Guild v. NLRB, ___ F.2d ___, 89 LC ¶12,207 (D.C.Circ., 1980). The work rule involved in this demand meets that basic test. Its clear and direct major impact is on conditions of employment and not upon essential managerial responsibilities. The work rule here is similar to the use of time clocks as a check upon the hours worked by employees, and the NLRB has held that the institution of time clocks is a mandatory subject of negotiation. Nathan Littauer Hospital Association, 229 NLRB No. 166, 95 LRRM 1296 (1977).¹

The third demand is that the City institute a voluntary physical fitness program. It provides:

"The City shall institute, on voluntary participation by the individual employee, a physical fitness program."

The employer argues that the demand is not a mandatory subject of negotiation because employee participation would be voluntary. This argument is not persuasive. The availability of a fringe benefit is a mandatory subject of negotiation even if not all employees choose to take advantage of it: Tuition reimbursement is an example of such a fringe benefit, and it has been held to be a mandatory subject of negotiation. Board of

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¹ See also Rustcraft Broadcasting, 225 NLRB No.65, 92 LRRM 1576 (1976) and BNA Inc., 235 NLRB No.2, 97 LRRM 1447 (1978) in which the NLRB determined that an insignificant procedural change involving the use of time clocks did not violate the employer's duty to negotiate the subject generally.

Education of Huntington v. The Associated Teachers of Huntington, 30 NY2d 122, 5 PERB ¶7507 (1972); City of Kingston, 9 PERB ¶3069 (1976).

The fourth demand is for liability insurance. It provides:

"The City shall maintain an insurance policy to provide coverage for Employees for Torts Acts, Liability and False Arrest. Such coverage shall not be less than one million dollars per incident."

Insurance is an economic benefit and a form of compensation and is, therefore, a mandatory subject of negotiation. See Town of Haverstraw v. Newman, 75 App.Div.2d 874, 13 PERB ¶7006 (2nd Dept., 1980). The employer argues that this kind of insurance coverage is different because it would extend to off duty actions of the employees that are not related to on the job performance and the protection of unlawful civil or criminal conduct which cannot be protected as a matter of public policy. We find both objections to be without merit. In Haverstraw, the court held that as an economic benefit, insurance coverage need not be related to an employee's job performance. Nor do we construe the demand as having the effect of absolving the employee from unlawful conduct. The benefit simply relieves the employee of the civil liability he would incur. It would not absolve him of any criminal responsibility. Moreover, it would not preclude the employer from instituting disciplinary charges in appropriate situations.

The last demand would establish a Medical Review Board to determine whether an employee has a job-related illness or injury. The demand provides:

"There shall be a Medical Review Board to determine

whether an individual officer has an illness or injury which is job-related. Such board shall be comprised of a physician selected by the individual officer, a physician selected by the City and in the event that these physicians cannot agree, then a physician shall be selected by the mutual agreement of the individual's physician and the City's physician to make a determination."

The City contends that the demand is nonmandatory because the subject matter is covered by General Municipal Law §207-c. That statute deals with payments to policemen who suffer job-related injuries or illnesses. In pertinent part, it authorizes the employer to appoint a doctor to examine the injured or sick policeman to ascertain whether he has recovered and when he is able to work again. This statutory provision does not preclude the establishment of a procedure for the medical determination, either initially or on review, as to whether an illness or any injury is job-related. The General Municipal Law §207-c does not preclude the negotiation of such procedures any more than does Civil Service Law §75 in dealing with employee discipline. Section 75 does not preclude negotiations concerning designation of the hearing officer who makes determinations in disciplinary proceedings. Board of Education of Huntington, supra.

NOW, THEREFORE, WE AFFIRM the decision of the hearing officer, and

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WE ORDER that the exceptions herein be,
and they hereby are, dismissed.

DATED: Albany, New York
October 17, 1980

Harold R. Newman

Harold R. Newman, Chairman

Ida Klaus

Ida Klaus, Member

David C. Randles

David C. Randles, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	#1C-10/17/80
COPIAGUE UNION FREE SCHOOL DISTRICT,	:	
Respondent,	:	<u>BOARD DECISION AND ORDER</u>
-and-	:	
COPIAGUE ASSOCIATION OF PRINCIPALS,	:	<u>CASE NO. U-4297</u>
Charging Party.	:	

HENRY A. WEINSTEIN, ESQ., for Respondent

BARATTA & SOLLEDER, ESQS. (GEORGE J.
SOLLEDER, JR., ESQ., of Counsel), for
Charging Party

The charge herein alleges that the Copiague Union Free School District (District) violated its duty to negotiate in good faith with the Copiague Association of Principals (Association) "by reason of the (a) rejection of the agreement based on an issue not previously included in negotiations and (b) refusal to abide by the agreement reached...." The District denied that it rejected any agreement reached. On the contrary, it argued, it was the Association which reneged on the agreement.

The hearing officer determined that both parties agreed that they had come to an agreement, but that they differed as to their respective obligations under that agreement. Accordingly, she concluded that the issue presented by the charge and answer merely required an interpretation of the agreement reached by the parties. Ruling that it is not for PERB to interpret the parties' agreement, she dismissed the charge. The matter is now before us on exceptions of the Association to the hearing officer's decision.

was ever discussed in negotiations and argued that the issue of the guidelines was a "late starter" that the District added after agreement had been reached.

There is testimony that the District insisted upon the completion of the work of the Guidelines Committee by September 1, 1979, as a condition for the payment of any salary increase. Also the record suggests that the Board of Education approval of June 27, 1979, may have been conditioned upon the Guidelines Committee completing its work. There is contradictory testimony that the work of the Guidelines Committee was not a factor in negotiations. The hearing officer did not reach the question of which testimony she considered the more credible. The hearing officer noted the conflict in the testimony and indicated that it turns upon the resolution of the credibility of witnesses. However, because she perceived the issue before her as being limited to one of contract interpretation, she did not resolve the credibility question.

Discussion

We do not accept the hearing officer's analysis that the issue presented in this case merely involves a difference between the Association and the District as to their respective obligations under a final agreement. The record shows that the District has denied the existence of a final agreement. This position is made clear by the District's July 2, 1979 letter to the Association in which it described the agreement reached as "tentative".

The repudiation of a final agreement is a violation of the duty to negotiate in good faith.¹ It is clear that if there are to

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¹ c.f. NLRB v. Custom Wood Specialties, ___ F2d ___, 104 LRRM 2530 (8th Cir., 1980); Birkenwald Distributing Co., 243 NLRB No.155, 102 LRRM 1005 (1979); Union Springs, 6 PERB ¶3074 (1973); City of New York, 8 PERB ¶3051 (1975); Baldwin Sanitation District, 8 PERB ¶3074 (1975).

Facts

The District and the Association reached an agreement which originally covered the period, July 1, 1976 to June 30, 1978. On December 8, 1978, the period covered by the agreement was extended to June 30, 1979. Pursuant to that agreement, a committee was established for the development of guidelines for 1980-81 salaries to be based upon performance. The committee was to submit the guidelines by June 1, 1979. It did not meet the deadline and, by that date, it had ceased to function.

In March 1979, the parties commenced negotiations for an agreement to succeed the one expiring on June 30, 1979. The sole demand of the Association was for a salary increase. The District made a counterproposal to the Association's salary demand, but did not propose any other changes in the prior agreement.

In June 1979, the parties reached an agreement on a salary increase, subject to ratification by the District's Board of Education and by the Association's membership. It was so ratified, the approval by the Board of Education occurring on June 27, 1979. Thereafter, on July 2, 1979, the District wrote to the Association and advised it that the agreement was "tentative" in that it was conditioned upon the Guidelines Committee completing its work by a deadline that was extended to September 1, 1979. As the September 1 deadline was not met, the District refused to pay the salary increase.

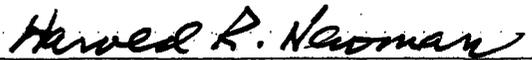
6535 In defense of its conduct, the District argued to the hearing officer that the significance of the work of the Guidelines Committee had been made known to the Association's committee and that the issues had been discussed during negotiating sessions. The Association denied that the work of the Guidelines Committee

be harmonious and cooperative relations between public employers and the organizations representing their employees, neither side may be permitted to repudiate its agreements. Such a repudiation, if it occurred here, would be inconsistent with the requirements of good faith negotiations.

The record indicates, however, that there may be a dispute as to whether any final agreement had, in fact, been reached. If there was no final agreement, or if the agreement was a conditional one, as the District states, its refusal to acknowledge the Association's version of the agreement would not appear to violate the Taylor Law. If, however, there was an agreement in the terms alleged by the Association, the District's repudiation of that agreement would be a violation of its duty to negotiate in good faith. To resolve this issue, the hearing officer should take further relevant evidence and resolve the question of the credibility of the conflicting testimony.

NOW, THEREFORE, WE REMAND this matter to the hearing officer for further proceedings in accordance with this decision.

DATED: Albany, New York
October 17, 1980


Harold R. Newman, Chairman


Ida Klaus, Member


David C. Randles, Member

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	:	#1D-10/17/80
	:	
CLARKSTOWN CENTRAL SCHOOL DISTRICT,	:	<u>BOARD DECISION AND</u>
	:	
	:	<u>ORDER</u>
	:	
Upon the Application for Designation	:	
of Persons as Managerial or Confidential.	:	<u>CASE NO. E-0617</u>
	:	

LEXOW & JENKINS, P.C. (WARREN BERBIT, ESQ.,
of Counsel), for the School District

ANTHONY D. WILDMAN, for the Clarkstown Educa-
tional Secretaries Association and the Clarkstown
Teachers Association

The Clarkstown Educational Secretaries Association and the
Clarkstown Teachers Association, which jointly intervened in this
proceeding, have filed exceptions to a determination of the
Director of Public Employment Practices and Representation
(Director) that Joan Ryan, a secretary employed by the Clarkstown
Central School District (District), is a confidential employee.¹

In support of its application, the District submitted Joan
Ryan's job duty statement which, among other things, specified
that she "maintains confidential and regular correspondence." It
also submitted an affidavit stating that Joan Ryan is a personal
secretary to Dr. Travaglini, the Assistant Superintendent for

¹ The employer applied for the designation of five clerical
employees as confidential. The Director granted the applica-
tion. The joint intervenor accepts the Director's determina-
tion with respect to four of the five employees.

Instruction, and that her functions include the handling of confidential information relating to personnel matters, collective bargaining negotiations, the enforcement of collective bargaining agreements and employee discipline. On March 27, 1980, while this matter was pending before the Director, the District submitted a supplemental affidavit. The affidavit indicated that Dr. Travaglini is on the District's negotiating team and that he has responsibilities involving employee grievances, evaluations and contract interpretation. The supplemental affidavit further stated that on March 12, 1980, Joan Ryan appeared at a negotiating session on behalf of the Clarkstown Educational Secretaries Association and that, consequently, it has had to take "the extraordinary and logistically difficult, if not impossible, measure of advising Dr. Travaglini to bypass his secretary on all confidential matters."

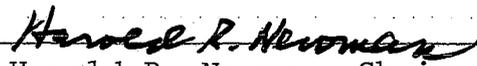
The joint intervenor bases its exceptions on the above-quoted line of the supplemental affidavit. It contends that Ryan is not performing any confidential functions at this time and argues that the test for her designation as confidential is not whether she may be reasonably required to perform confidential tasks, but whether she is actually doing so.²

² In Binghamton, 12 PERB ¶3099 (1979), we noted that §201.7(a) of the Taylor Law provides distinct tests for the designation of employees as managerial and as confidential. A managerial employee is one who may be reasonably required to perform managerial functions, while a confidential employee is one who actually performs confidential functions.

On the evidence before us, we affirm the determination of the Director that Joan Ryan is a confidential employee. Based upon her job duty statement and the two affidavits, we conclude that she performed confidential services to Dr. Travaglini and to the District until March 12, 1980, when she first appeared at a negotiating session on behalf of the Clarkstown Educational Secretaries Association. Thereafter, the District withheld Ryan's normal confidential responsibilities from her as a temporary expedient pending the resolution of this case, which had already been filed before this Board.

NOW, THEREFORE, WE ORDER that the decision of the Director in this matter be, and it hereby is, affirmed.

DATED: Albany, New York
October 17, 1980



Harold R. Newman, Chairman



Ida Klaus, Member



David C. Randles, Member

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the

: #1E-10/17/80

NASSAU EDUCATIONAL CHAPTER OF THE CIVIL SERVICE
EMPLOYEES ASSOCIATION, UNIT #18, AND CIVIL
SERVICE EMPLOYEES ASSOCIATION, INC.,

: BOARD DECISION
: AND ORDER

Respondents,

: CASE NO. D-0193

upon the Charge of Violation of Section 210.1
of the Civil Service Law.

On June 12, 1980, Martin L. Barr, Counsel to this Board, filed a charge alleging that the Nassau Educational Chapter of the Civil Service Employees Association, Inc., Unit #18 (hereinafter the Unit), had violated Civil Service Law §210.1 in that it caused, instigated, encouraged, condoned and engaged in a strike against the Plainedge Union Free School District (hereinafter the District). The charge also named the Civil Service Employees Association, Inc. (hereinafter CSEA) as a respondent, but solely because the Unit has authorized the District to remit to CSEA the deductions to which the Unit is entitled pursuant to Civil Service Law §208 and which are subject to forfeiture in this proceeding.

The strike alleged in the charge occurred on April 14, 15, 17 and 18, 1980. Approximately 57 employees in a negotiating unit of 62 custodial and maintenance employees participated in it. However, the absences each day were limited to the employees at particular work locations and no employee was absent more than one day. An average of 14 employees absented themselves each day. Because the strike was conducted in this manner, the District was readily able to have the work ordinarily performed by unit employees performed by part-time employees or administrators. The

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strike therefore had a minimal impact on the District's operations.

The respondents filed an answer but thereafter agreed to withdraw it, thus admitting all of the factual allegations of the charge, upon the understanding that the charging party would recommend and this Board would accept a penalty of loss of the Unit's deduction privileges to the extent of one third (33 $\frac{1}{3}$ %) of the amount that would otherwise be deducted during a year.¹

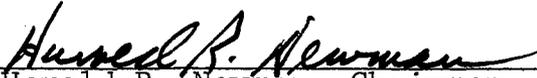
On the basis of the unanswered charge, we find that the Unit violated CSL §210.1 in that it engaged in a strike as charged, and we determine that the recommended penalty is a reasonable one.

WE ORDER that the deduction privileges of the Nassau Educational Chapter of the Civil Service Employees Association, Inc., Unit #18, including any remittances therefrom by the District to the Civil Service Employees Association, Inc., Local 1000, AFSCME, be suspended, commencing on the first practicable date, and continuing for such period of time during which one third (33 $\frac{1}{3}$ %) of the annual amount of dues and agency shop fees, if any, would otherwise be deducted. Thereafter, no deductions shall be made on its behalf by the Plainedge Union Free School District until

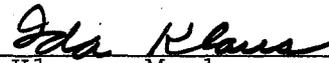
¹ This is intended to be the equivalent of a four-month suspension of the privileges if deductions were made uniformly from each payroll throughout the year. In fact, deductions are not made uniformly throughout the year.

the Nassau Educational Chapter of the Civil Service Employees Association, Unit #18 affirms that it no longer asserts the right to strike against any government as required by the provisions of CSL §210.3(g).

DATED: Albany, New York
October 17, 1980



Harold R. Newman, Chairman



Ida Klaus, Member



David C. Randles, Member

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