

VERMONT LABOR RELATIONS BOARD

WINDSOR SOUTHEAST EDUCATION)	DOCKET NO. 88-21
ASSOCIATION)	
)	
v.)	
)	
WINDSOR SCHOOL DISTRICT)	
BOARD OF SCHOOL DIRECTORS)	

MEMORANDUM AND ORDER

On April 18, 1988, the Windsor Southeast Education Association ("Association") filed an unfair labor practice charge, alleging that the Windsor School District Board of School Directors ("Employer") violated 21 VSA §1726(a)(1), (3) and (6). Essentially, the Association claimed that the Employer committed an unfair labor practice when, during the time the Association and Employer were at impasse in negotiating a successor collective bargaining agreement to the agreement which was to expire on June 30, 1988, the Employer issued reduction in force notices to all teachers represented by the Association. The Association contended that, through this action, the Employer was attempting to intimidate and coerce the Association to change its stance on the items remaining in dispute prior to mediation by issuing reduction in force letters to all teachers regardless of seniority, established patterns of enrollment, or prior staffing; that the Employer was recording an unwillingness to fund any collective bargaining agreement; and that the Employer was engaging in bad faith bargaining. The Association requested that the Labor Relations Board issue an order requiring the employer to cease and desist from its action and immediately rescind the reduction in force notices.

On May 2, 1988, the Employer filed a response to the charge and denied that any unfair labor practice had been committed. In the response, the Employer indicated that the parties had scheduled a mediation session for May 13 to attempt to resolve the contract negotiations impasse. On June 1, 1988, the Association informed the Board that the parties had settled their contract dispute. Despite the settlement, however, the Association requested that the Board proceed in considering the unfair labor practice charge. The Association contended that the issuance of reduction in force notifications had a significant negative impact on the collective bargaining process; and that the Association had no recourse to prevent a similar action during the next round of bargaining other than to obtain a decision on the charge.

We need decide whether this matter is justiciable given the fact that the parties have settled their contract negotiations dispute. The unfair labor practice charge was based upon alleged actions of the Employer in the midst of contract negotiations with the Association seeking as a remedy a cease and desist order, which negotiations have now resulted in a collective bargaining agreement. Under similar circumstances, where a teachers' association and a school board reached agreement on a collective bargaining contract pending the outcome of an unfair labor practice charge prompted by actions occurring during contract negotiations, the Vermont Supreme Court dismissed a case as moot. In North Country Education Association v. Brighton School Board, et al, 135 Vt. 451 (1977), the Court dismissed as moot the appeal on the grounds that bona fide litigation between the parties no longer existed because the litigation had been brought

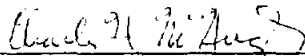
to an agreed conclusion before court review. Jurisdiction is conferred on the Board only where an actual controversy between the parties exists. In re Friel, 141 Vt. 505 (1982).

Similarly here, we conclude the charge should be dismissed as not justiciable because no actual controversy exists between the parties as the underlying contract negotiations dispute has been brought to an agreed conclusion before Board review. If a similar action occurs in the next round of negotiations, we believe that the Board would be able to review any such action in a timely manner.


Now therefore, based on the foregoing reasons, it is hereby ORDERED that the unfair labor practice charge filed by the Windsor Southeast Education Association on April 18, 1988, is DISMISSED.

Dated the 8th day of July, 1988, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh, Chairman


William G. Kemsley, Jr.


Louis A. Toepfer