

VERMONT LABOR RELATIONS BOARD

APPEAL OF:)
) DOCKET NO. 92-11
RONALD WEST)

MEMORANDUM AND ORDER

At issue is whether the Labor Relations Board should grant the Motion for Summary Judgment filed by Ronald West ("Appellant"). Appellant contends that the Board should grant his motion because the State has not filed a timely answer in this matter. Appellant relies on Article 18, Section 6, of Board Rules of Practice, which provides:

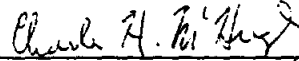
Failure to file a timely answer may be deemed by the Board to constitute an admission of the material facts alleged in the grievance and a waiver by the party of an evidentiary hearing, leaving a question or questions of law, alleged contract violation(s), or alleged violation(s) of a rule or regulation to be determined by the Board.

We deny Appellant's motion. Appellant has cited a provision of the Board Rules which does not apply to the classification appeal which he has filed with the Board. By its very terms, Article 18, Section 6, of the Rules applies to a "grievance" wherein the Board conducts an "evidentiary hearing". Given that the collective bargaining contract between the State and the Vermont State Employees' Association provides in Article 16, Section 7, that the Board shall not conduct a de novo hearing in classification appeals, the Board does not take evidence in such matters. Appeal of DeGreenia and Lewis, 11 VLRB 227, 228 (1988). Instead, the Board bases its decision on the record of proceedings before the Department of Personnel, briefs submitted by the parties, and oral argument before the Board. Id. Thus, Appellant's reliance on Article 18, Section 6, of the Board Rules of Practice is misplaced.

NOW THEREFORE, based on the foregoing reasons, it is hereby
ORDERED that Appellant's Motion for Summary Judgment is DENIED.

Dated this 10th day of December, 1992, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD



Charles H. McHugh, Chairman



Catherine L. Frank



Carroll P. Comstock