

VERMONT LABOR RELATIONS BOARD

VERMONT STATE EMPLOYEES' )  
ASSOCIATION )

V. )

STATE OF VERMONT )  
(RE: DEPARTMENT OF MOTOR )  
VEHICLES MILEAGE )  
REIMBURSEMENT POLICY)

DOCKET NO. 01-18

MEMORANDUM AND ORDER

At issue is whether the Labor Relations Board should issue an unfair labor practice complaint in this matter. On April 20, 2001, the Vermont State Employees' Association ("VSEA") filed an unfair labor practice charge, alleging that the State of Vermont, Agency of Transportation, Department of Motor Vehicles ("Employer") made an improper unilateral change in a condition of employment, in violation of 3 V.S.A. Section 961(1) and (5), by implementing a new mileage reimbursement policy. As a remedy, VSEA requested that the Board order the Employer to rescind the mileage reimbursement policy, and to reimburse all employees who have suffered reduced mileage reimbursement as a result of the policy.

On March 8, 2001, VSEA, on behalf of itself and certain employees of the Employer, filed a grievance with the Board concerning the same mileage reimbursement policy at issue in the unfair labor practice charge. On December 7, 2001, after a hearing on the grievance, the Board concluded that the mileage reimbursement policy violated the collective bargaining contract between VSEA and the State of Vermont. As a remedy, the Board ordered the Employer to rescind the mileage reimbursement policy and reimburse

the named grievants for mileage for which they would have received reimbursement but for the mileage reimbursement policy. Grievance of VSEA, Friot, et al, 24 VLRB 211.

Given that the Board has ordered the rescinding of the mileage reimbursement policy and has granted a remedy to affected employees who joined in the grievance contesting the policy, the question arises as to whether the Board should decline to issue an unfair labor practice complaint. In several cases in which both a grievance and an unfair labor practice charge have been filed contesting the same action take by an employer, the Board has concluded that a dual process of review is not warranted. In those cases, the Board has exercised its discretion to not issue an unfair labor practice complaint and has deferred the matter to the Board's grievance proceedings. VSEA, Barney, et al v. Department of Public Safety, 21 VLRB 230 (1998). Choudhary v. State of Vermont (Department of Public Service and Department of Personnel), 15 VLRB 185 (1992). Swett and Vermont State Colleges Faculty Federation, Local 3180, VFT, AFT, AFL-CIO v. Vermont State Colleges, 3 VLRB 344 (1980).

Here, we also conclude that a dual process of review is not warranted and we exercise our discretion to not issue an unfair labor practice complaint. Through the recent grievance decision, the Board concluded that the mileage reimbursement policy violated the collective bargaining contract. It is not necessary to also adjudicate whether the policy violated the unfair labor practice provisions of the State Employees Labor Relations Act. In the grievance decision, the Board ordered that the mileage reimbursement policy be rescinded and granted a remedy to affected employees who joined in the grievance contesting the policy. We would not grant a greater remedy through the unfair labor

practice proceeding than was granted in the grievance. Thus, there is nothing to be gained by proceeding further in the unfair labor practice case.

Based on the foregoing reasons, we decline to issue an unfair labor practice complaint, and it is ordered that the unfair labor practice charge filed by the Vermont State Employees' Association in this matter is dismissed.

Dated this 20th day of December, 2001, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

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Catherine L. Frank, Chairperson

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Carroll P. Comstock

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Richard W. Park

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John J. Zampieri

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Edward R. Zuccaro