

VERMONT LABOR RELATIONS BOARD

APPEAL OF:

ROBERT M. GODERRE

)
)
)

DOCKET NO. 81-38

DISMISSAL OF APPELLANT'S MOTION
FOR ORDER CLOSING PROCEEDINGS TO
THE PUBLIC AND SEALING BOARD'S FILE

This matter came before the Board on August 11, 1981, from the Vermont State Employees' Association, Inc. (hereinafter "VSEA") as an appeal from disciplinary action by the Commissioner of Public Safety imposed on Appellant. On August 20, 1981, the VSEA filed a motion requesting the Board to close the proceedings to the public, and seal the Board's file.

The first contention of the VSEA is this matter is not a grievance within the meaning of the statute but is rather a unique statutory proceeding; and, thus, 3 VSA §928, which provides hearings of the Board as they relate to grievance appeals shall be public, is not applicable here. We agree.

3 VSA §902(14) defines a Grievance as "expressed dissatisfaction with aspects of employment or working conditions under collective bargaining agreement or the discriminatory application of a rule or regulation." The Agreement in effect here, the State Police Unit Agreement covering the period July 1, 1979 to June 30, 1981, provides in Article III, Section 2c:

Matters of discipline, disciplinary action...
are excluded from the grievance procedure under this
article.

Thus, this matter, as a "disciplinary action", is expressly
excluded from the grievance procedure and, consequently, cannot be
considered a grievance. Since this matter is not a grievance, the
requirement of 3 VSA §928(b)(3) that hearings of grievance appeals
be made public is inapplicable.

The second contention of the VSEA is that it is the clearly-stated
policy of the law that state police disciplinary procedures should be
strictly confidential, and not subject to public scrutiny.

3 VSA §929 provides:

... All findings, conclusions and determinations of
the board and the records of all hearings and other
proceedings, unless otherwise provided by law, shall
be public records.

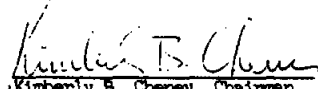
It necessarily leads from this provision that hearings of the Board
shall be public also, unless otherwise provided by law, for private
hearings would be meaningless if the records of those hearings were
public.

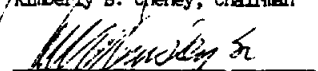
Thus, we are not permitted to remove hearings and Board files from
public scrutiny unless provided by law. The VSEA holds that the statutory
procedure set up to allow state police to appeal disciplinary action so
provides. We disagree. It is true 20 VSA §1880(b) and (c) provides
that the officer charged has the option of having a public or private
hearing before either the district court or a panel of officers. However,
there is no provision giving the officer the same discretion before the
Labor Relations Board. Without such a provision, 3 VSA §929 controls,


and thus proceedings and records of this appeal must be public.

Dated this 5 day of October, 1981, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Kimberly B. Cheney, Chairman


William G. Kemsley, Sr.


James S. Gilson