

VERMONT LABOR RELATIONS BOARD

GEORGE J. HURLEY

v.

DR. W. RICHARD BROTHERS,
SUPERINTENDENT OF RUTLAND
PUBLIC SCHOOLS

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DOCKET NO. 92-24

MEMORANDUM AND ORDER

On May 27, 1992, George J. Hurley, an employee of the Rutland Public Schools Maintenance Department, filed an unfair labor practice charge against Dr. W. Richard Brothers, Superintendent of the Rutland Public Schools. On June 12, 1992, Hurley filed an amended charge. In the charge, as amended, Hurley alleges that Dr. Brothers committed an unfair labor practice, in violation of 21 VSA §1726(a)(5) and (6), by actions relating to the filling of a vacant position, which position Hurley applied for and was offered. Hurley contends that Dr. Brothers went "outside of Articles 4-5 of the Contract between Local 1201, AFSCME and the Rutland School Board of Education" by reducing the hours of the position from 40 to 25 hours per week. Attorney John Serafino filed responses to the charge, as amended, on behalf of Dr. Brothers.

The unfair labor practice provisions of the Municipal Employee Relations Act, 21 VSA §1721 et seq. ("MERA"), cited by Hurley in support of his unfair labor practice charge provide as follows:

§1726. Unfair labor practices

a) It shall be an unfair labor practice for an employer:

... 5) To refuse to bargain collectively in good faith with the exclusive bargaining agent.

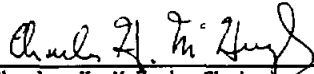
6) To refuse to appropriate sufficient funds to implement a written collective bargaining agreement.

§1727(a) of MERA provides the Board with discretion whether to issue an unfair labor practice complaint. We exercise our discretion not to issue an unfair labor practice complaint in this matter. To the extent that the charge alleges that the collective bargaining agreement has been violated, the proper avenue to address that issue is through filing a grievance under the Contract, not through filing an unfair labor practice charge. To the extent that the charge alleges that the reduction in hours of the position should have been bargained with the Union representing the employees, Local 1201, AFSCME, that is an allegation appropriately brought by the Union pursuant to §1726(a)(5), not an individual employee represented by the Union. Finally, to the extent that the charge alleges that the reduction in hours of the position violated §1726(a)(6) as a refusal to "appropriate sufficient funds to implement a collective bargaining agreement", there is no indication in the materials filed in this matter that any basis exists for a conclusion that reducing the hours of the position constitutes failure to appropriate sufficient funds to implement the collective bargaining agreement. Moreover, this is an allegation more appropriately brought by the Union representing employees, not an individual employee represented by the Union.

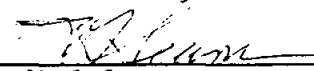
Now therefore, based on the foregoing reasons, we decline to issue an unfair labor practice complaint and it is hereby ORDERED that the unfair labor practice charge filed by George J. Hurley is DISMISSED.

Dated this 14th day of September, 1992, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh, Chairman


Louis A. Toepfer


Leslie G. Seaver