

VERMONT LABOR RELATIONS BOARD

AFSCME LOCAL 1201,)	
COUNCIL 93, AFL-CIO)	
)	
and)	DOCKET NO. 93-41
)	
TOWN OF MIDDLEBURY)	

MEMORANDUM AND ORDER

At issue is whether the Labor Relations Board should issue an unfair labor practice complaint in this matter. On June 9, 1993, AFSCME Local 1201, Council 93, AFL-CIO ("Union"), filed an unfair labor practice charge against the Town of Middlebury ("Employer"). Therein, the Union alleged that the Employer violated 21 V.S.A. §1726 (a) (5) by refusing to proceed to arbitration on a grievance filed by the Union under the parties' collective bargaining agreement concerning the "swapping" of shifts by employees. As a remedy, the Union requested that the Board order the Employer to submit the dispute to arbitration.

In response to the charge, the Employer contended that the Labor Relations Board lacks jurisdiction given that the issue is enforcement of a collective bargaining agreement and arbitrability of a grievance.

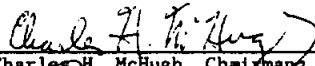
We agree that we lack jurisdiction in this matter. The Board has recognized that our jurisdiction over unfair labor practices does not extend to determining the arbitrability of grievances; that the question of arbitrability of a specific claim under a valid general agreement to arbitrate is a question for arbitrators and, ultimately, the courts. Union District 32 High School Association, AFT Local 3333, and Jethro Danzinger v. Union District 32 Board of School Directors, 4 VLRB 254, 255 (1981).

The Vermont Arbitration Act, 12 V.S.A. §5651 et seq., expressly provides that a party to an arbitration clause has the right to seek a superior court order compelling arbitration when the other party to the clause refuses to participate. 12 V.S.A. §5671, §5674. Thus, the Union, by filing an unfair labor practice charge, has not selected the proper forum in which to resolve this dispute.


NOW THEREFORE, based on the foregoing reasons, the Labor Relations Board declines to issue an unfair labor practice complaint and it is hereby ORDERED that the unfair labor practice charge filed by AFSCME Local 1201, Counsel 93, AFL-CIO, is DISMISSED.

Dated this 13th day of October, 1993, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh, Chairman


Catherine L. Frank


Louis A. Toepfer