

VERMONT LABOR RELATIONS BOARD

APPEAL OF:

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DOCKET NO. 00-69

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PAUL BARCI

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MEMORANDUM AND ORDER

The issue before the Labor Relations Board is whether to grant a motion filed by the Vermont Department of Public Safety (“Employer”) to clarify the Memorandum and Order issued by the Labor Relations Board in this matter on November 30, 2001; 24 VLRB 193; and whether to grant the Employer’s request to stay the order.

The Employer seeks clarification of the following sentence appearing on page 195 of the Memorandum and Order: “Thus, we conclude that the Employer is required to provide Appellant with summaries of all allegations of misconduct by state police officers, and the findings as to such allegations, between January 1, 1995, and the date Appellant was disciplined, covered by Section 13.1 of Part A of the Employer’s Code of Conduct.” The Employer seeks confirmation of its assumption that the Board refers to only those internal affairs cases, covered by Section 13.1 of the Code of Conduct, that were either proved, admitted or not contested and cases where discipline was imposed.

The Employer’s assumption is incorrect. The sentence in the Board Memorandum and Order is clear in including allegations that have been made and have not been found to be established, as well as the types of cases indicated by the Employer.

The Employer requests that the Board stay its order pending a finding by the Board that Appellant has in fact committed an act of misconduct. As a basis for this request, the Employer indicates that it intends to file a motion requesting that the Board bifurcate the hearing on whether Appellant committed an act of misconduct from a

hearing on the reasonableness of the discipline imposed by the Employer. The Employer also contends that a stay of the Board's order is warranted because the same discovery issue is currently on appeal before the Vermont Supreme Court through the Employer's appeal of the Board decision, Grievance of Danforth, 23 VLRB 288 (2000).

We conclude that neither basis asserted by the Employer justifies granting the request to stay the Board's order. It is not appropriate to grant a party's request for a stay based upon a statement by such party of what it intends to do in the future, something that we cannot assume will actually occur. Further, a party is entitled to seek to stay of a Board order only after such party has appealed an order to the Vermont Supreme Court, which has not occurred in this case.

Thus, it is ordered that the motion filed by the Employer to clarify the Memorandum and Order issued by the Labor Relations Board in this matter on November 30, 2001 is denied, and the Employer's request to stay the order is also denied.

Dated this ____ day of April, 2002, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Catherine L. Frank, Chairperson

Carroll P. Comstock

Richard W. Park

Edward R. Zuccaro