

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:	)	DOCKET NO. 79-82S
	)	
VERMONT STATE EMPLOYEES'	)	RE: Provision of cameras to
ASSOCIATION, INC.	)	Game Wardens

FINDINGS OF FACT, OPINION AND ORDER

Statement of the Case

On November 9, 1979, the Vermont State Employees' Association, Inc. (hereinafter, "VSEA"), through its Attorney Michael Zimmerman, filed a grievance with the Vermont Labor Relations Board. In that grievance, VSEA appealed the State's decision not to equip each game warden of the State of Vermont Department of Fish and Game with a camera. In so doing, VSEA alleges the State violated Article I, Fish and Game Equipment, of the Agreement between the State of Vermont and VSEA for the Non-Management unit, effective July 1, 1979.

Assistant Attorney General Bennett Greene filed an answer for the State on November 14, 1979.

On November 19, 1979, VSEA, previously apprised of the State's intent to file a motion to dismiss, filed a memorandum opposing the State's motion to dismiss and the affidavit of Robert Babcock, Jr., chief negotiator for VSEA at the time the Fish and Game Equipment clause was negotiated. On December 20, 1979, the State filed a motion to dismiss the grievance, contending the State was not required under the contract to provide each warden with a camera.

Upon receipt of the Grievant's memorandum and affidavit, the Board held a hearing on the merits and the State's motion to dismiss, on May 22, 1980. Members William G. Kemsley, Sr. and Robert H. Brown were present. Kimberly Cheney was absent. Requests for findings and memoranda were waived by the parties.

#### FINDINGS OF FACT

1. Grievant is the recognized collective bargaining representative of Vermont State Employees in the Non-Management Unit.

2. The collective bargaining agreement in effect and material to this grievance is the Agreement between the State of Vermont and the Vermont State Employees' Association, Inc., for the Non-Management Unit (hereinafter referred to as "contract"), July 1, 1979 through June 30, 1981. The contract is on file with the Board and is incorporated as evidence in this case as Board Exhibit #1.

3. Article I of the contract provides, in pertinent part, as follows:  
"Effective July 1, 1979, the State will provide the following fish and game equipment ... one camera per warden district."

4. At all times relevant to this grievance, there have been thirty-seven Game Wardens in the State of Vermont stationed throughout five regional districts.

5. The duties and responsibilities of a Game Warden are accurately represented on the position descriptions admitted as Grievant's Exhibits A and B which are incorporated into these findings of fact.

6. A Game Warden District Supervisor is assigned to each of the five regional Fish and Game districts throughout the state. Those supervisors

are responsible for supervising the Game Wardens assigned to their respective districts.

7. The duties and responsibilities of a Game Warden District Supervisor are accurately represented on the position descriptions admitted as Grievant's Exhibits C and D which are incorporated into these findings of fact.

8. Effective July 1, 1979, the Department of Fish and Game supplied each regional district supervised by a Warden District Supervisor with a camera.

9. On August 31, 1979, Grievant filed a step two grievance with the Commissioner, Department of Fish and Game, alleging the State had violated Article I, Fish and Game Equipment, by refusing to supply each of the thirty-seven Game Wardens with a camera.

10. On September 20, 1979, that grievance was denied by the Commissioner.

11. On September 24, 1979, Grievant filed a step three grievance on this matter, which grievance was denied on October 11, 1979, by the Director of Employee Relations.

#### OPINION

The facts in this case are uncontroverted. The only issue we are required to decide is what does the contract term "warden district" mean. Is the State required to provide all thirty-seven Game Wardens with a camera as the Grievant contends or has the State fulfilled its contractual obligation with the provision of one camera to each of the five Fish and Game regional districts? Article I, Fish and Game Equipment, states in pertinent part:

Effective July 1, 1979, the State will provide the following fish and game equipment ... one camera per warden district.

(emphasis added)

The Board has previously decided in construing contracts that each word in the contract is the result of hard fought bargaining, and thus is to be given its literal meaning. See Vermont State Faculty Federation v. Vermont State Colleges, 1 VLRB 302, 304 (1978). The language used here is ambiguous in that the contract neither says each warden is to get a camera, nor that one camera shall be provided for the use of the wardens in each supervisory district. We, then, must attempt to determine the will of the parties. The words "warden district" seem to us to imply one of the five regional districts to which a "Warden District Supervisor" is assigned by the Commissioner. The use of the term "district" leads to this implication.

We have considered an affidavit of the VSEA chief negotiator as to his intent in using the words in question. We did not, however, consider that evidence particularly helpful, being inherently self-serving. Moreover, it may well have been the secret intent of the parties in negotiating the clause in question to deliberately leave it vague in order to reach agreement. In any event, we believe contract clauses providing special equipment should be required to clearly specify quantities and intended recipients before this Board will order an expenditure of funds not clearly agreed to.

#### ORDER

Now, therefore, for all the foregoing reasons and based on these findings of fact, the State's motion to dismiss the grievance of the Vermont State Employees' Association, Inc., regarding the denial of the Fish and Game

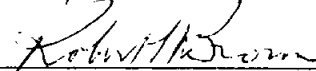
Department to provide each Game Warden with a camera is hereby GRANTED and this grievance is ORDERED DISMISSED.

Dated this 15th day of June, 1980, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD



William G. Kemsley, Sr.



Robert H. Brown