

VERMONT LABOR RELATIONS BOARD

AFSCME, LOCAL 490, BENNINGTON)	
DEPARTMENT OF PUBLIC WORKS AND)	
POLICE UNITS)	
)	DOCKET NO. 86-44
v.)	
)	
TOWN OF BENNINGTON)	

MEMORANDUM AND ORDER

Upon review and consideration of the materials filed in the above-entitled matter, and upon investigation by the Labor Relations Board, it is apparent the dispute involves the interpretation of contract provisions and employees have an adequate redress for the alleged wrongs through the contractual grievance procedure of the parties. We note the Union has filed for appointment of an arbitrator to resolve the underlying dispute in this matter. As a consequence, we believe it is appropriate to allow the procedure to run its course. Thus, we believe it appropriate to defer to the grievance arbitration procedure and not rule on the unfair labor practice charge at this time. Burlington Education Association, Inc. and Burlington Board of School Commissioners, 1 VLRB 335 (1978).

The Board retains jurisdiction in this matter solely for the purpose of entertaining a motion the grievance arbitration has failed to meet the following criteria necessary for the Board to defer to an arbitrator's award, which we stated in Local 881, International Association of Firefighters, AFL-CIO-CLC v. City of Barre, 2 VLRB 81 (1979), and which are, to wit:

1. fair and regular arbitration proceedings;
2. agreement by all parties to be bound;

3. the decision is not repugnant to the purpose and policies of the Act;
4. the arbitrator clearly decided the unfair labor practice issue; and
5. the arbitrator decided issues within his or her competency.

Now therefore, based on the foregoing reasons, it is hereby

ORDERED:

The Labor Relations Board declines to rule on this unfair labor practice charge at this time and defers the matter to grievance arbitration; and, further the Board retains jurisdiction in this matter solely for the purpose of entertaining a motion that the grievance arbitration has failed to meet the appropriate criteria set out above, which motion shall be filed within 30 days of issuance of the arbitration decision.

Dated this ___ day of October, 1986, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD



William G. Kemsley, Sr.

Catherine L. Frank

Charles H. McHugh