

VERMONT LABOR RELATIONS BOARD

VERMONT STATE EMPLOYEES')
ASSOCIATION)

and)

JUDICIARY DEPARTMENT OF THE)
STATE OF VERMONT)

DOCKET NO. 19-29

MEMORANDUM AND ORDER

We need to decide whether to grant a motion filed by the Judiciary Department of the State of Vermont (“Employer”) on February 8, 2021, requesting that the Labor Relations Board amend or supplement our October 21, 2020, order in this matter. In the October 21 decision, the Board ordered that eight specified employees be “added to the bargaining unit of Judiciary Department employees represented by the Vermont State Employees’ Association effective as of the date of this decision, provided they are still employed as of the date of this decision”. 35 VLRB 471, 501. The Board order further provided: “The parties shall meet and confer before any adverse action is taken against any affected employee as a result of this unit clarification, and the Board shall retain jurisdiction in the event the parties are unable to agree on measures, if any, to mitigate any potential harm to any affected employee.” Id. at 502.

The motion filed by the Employer requests that, as a product of the meet and confer process, the Board amend or supplement its order to: 1) ratify an implementation plan specifying placement of the affected employees¹ in limited service positions, the term of limited status employment, crediting of accrued leave, paid holiday entitlement, and eligibility for health care coverage; and 2) in order to mitigate adverse impacts concerning retirement and health care

¹ One of the eight employees resigned prior to the October 21 Board decision. Thus, this individual is not an affected individual under the Board’s decision. This leaves seven affected employees.

coverage, set a prospective date of March 1, 2021, or a date certain three weeks from the date of issuance of this order, whichever period is longer, for the formal change in employment status of the seven employees to limited status. VSEA assents to the Employer's motion.

Upon review and consideration of the motion, we grant it. First, the implementation plan detailed in the motion is consistent with the Board's October 21 decision providing for the parties to negotiate in good faith with respect to required subjects of bargaining for these employees. 35 VLRB at 500. Second, with respect to the change in employment status of the affected employees to limited status, the Board explicitly recognized in the October 21 decision that adverse actions against affected employees were possible as a result of this unit clarification, and ordered the parties to meet and confer to seek to work out any issues in this regard. The parties have done so, resulting in a request to make the change to limited status prospective. This serves to lessen any adverse impacts on the employees with respect to health care coverage and retirement. The assented-to motion appropriately addresses the adverse impacts contemplated in the Board decision.

Based on the foregoing reasons, it is ordered that the October 21, 2020, order of the Board is amended and supplemented to ratify the implementation plan specified in the motion, and to set a prospective date of March 11, 2021, for the formal change in employment status of the seven employees to limited status.

Dated this 18th day of February 2021, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Richard W. Park

Richard W. Park, Chairperson

/s/ David R. Boulanger

David R. Boulanger

/s/ Karen D. Saudek

Karen D. Saudek