

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of *
*
TOWN OF DARTMOUTH * Case No.: MUP-10-5831
*
and * Date Issued:
*
DARTMOUTH POLICE BROTHERHOOD * January 20, 2012

Board Members Participating:

Marjorie F. Wittner, Chair
Elizabeth Neumeier, Board Member
Harris Freeman, Board Member

Appearances:

Howard L. Greenspan, Esq. - Representing the Town of Dartmouth

William M. Strauss, Esq. - Representing the Dartmouth Police
Brotherhood

DECISION ON APPEAL OF HEARING OFFICER DECISION

1 A Department of Labor Relations (Department) Hearing Officer issued a decision
2 in this case on August 29, 2011 holding that the Town of Dartmouth (Town) had violated
3 Sections 10(a)(1) and (5) of Massachusetts General Laws, Chapter 150E (the Law) by
4 breaching negotiations ground rules. Specifically, the Hearing Officer found that certain
5 radio and newspapers remarks made by the Chairman of the Town's Select Board
6 violated the Town's express agreement with the Dartmouth Police Brotherhood (Union)
7 banning press releases unless negotiations reached mediation.

8 On September 1, 2011, the City filed a Notice of Appeal of the Hearing Officer's
9 decision pursuant to Section 11 of the Law and 456 CMR §§13.02 (1)(j). The City did

1 not file a supplementary statement with its appeal as required by Department Rule 456
2 CMR 13.15 (4),¹ or request an extension of time in which to do so.

3 Therefore, having reviewed the Hearing Officer's decision and, given the
4 absence of any factual or legal objections by the parties, the Board summarily
5 dismisses the appeal of the Hearing Officer's decision pursuant to Department Rule 456
6 CMR 13.15 (5).²

7 Order

8 WHEREFORE, based upon the foregoing, it is hereby ordered that the Town of
9 Dartmouth shall:

10 1. Cease and desist from:

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12 a) Failing to bargain in good faith by breaching the negotiation ground rules;

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14 b) Otherwise interfering with, restraining or coercing employees in the
15 exercise of their rights guaranteed under the Law.

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17 2. Take the following affirmative action that will effectuate the purposes of the Law:

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19 a) Bargain in good faith by adhering to the negotiation ground rules.

¹ Rule 13.15(4) states in pertinent part:

Within ten days after notice of the hearing officer's decision, or within 15 days after receipt of a copy of the taped recording or stenographic transcription of the hearing if a timely request for same has been made. . . whichever is later , any party appealing to the Board shall file and original and four copies of a supplementary statement.

² Rule 13.15 (5) states in pertinent part:

Supplementary statements shall state with specificity the basis of the appeal....The findings of fact made by the hearing officer may be adopted summarily by the Board unless specifically objected to by a timely filed supplementary statement. Only disputes as to material issues of fact need to be resolved by the Board on appeal. When a party claims that the hearing officer has made errors of law, the supplementary statement shall identify the challenged conclusions and must explain the basis upon which the party believes the conclusions to be erroneous. **Failure to provide the above-described information may result in summary dismissal of the appeal.** (Emphasis supplied).

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- b) Post immediately in all conspicuous places where members of the Union's bargaining unit usually congregate and where notices to these employees are usually posted, including electronically, if the Town customarily communicates to its employees via intranet or email, and maintain for a period of thirty (30) consecutive days thereafter, signed copies of the attached Notice to Employees.
- c) Notify the Department in writing of the steps taken to comply with this decision within ten days of receipt of the decision.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD


MARJORIE F. WITTNER, CHAIR


ELIZABETH NEUMEIER, BOARD MEMBER


HARRIS FREEMAN, BOARD MEMBER

APPEAL RIGHTS

Pursuant to the Supreme Judicial Court's decision in Quincy City Hospital v. Labor Relations Commission, 400 Mass. 745 (1987), this determination is a final order within the meaning of M.G.L. c. 150E, § 11. Any party aggrieved by a final order of the Board may institute proceedings for judicial review in the Appeals Court pursuant to M.G.L. c.150E, §11. **To claim such an appeal, the appealing party must file a Notice of Appeal with the Commonwealth Employment Relations Board within thirty (30) days of receipt of this decision.** No Notice of Appeal need be filed with the Appeals Court.



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD

NOTICE TO EMPLOYEES

**POSTED BY ORDER OF COMMONWEALTH EMPLOYMENT RELATIONS
BOARD**

AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS

The Commonwealth Employment Relations Board (Board) has held that the Town of Dartmouth has violated Section 10(a)(5), and derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E by breaching negotiation ground rules.

The Town of Dartmouth posts this Notice to Employees in compliance with the Board's order.

Section 2 of M.G.L. Chapter 150E gives public employees the following rights:

- to engage in self-organization; to form, join or assist any union;
- to bargain collectively through representatives of their own choosing;
- to act together for the purpose of collective bargaining or other mutual aid or protection;
- and
- to refrain from all of the above.

WE WILL NOT fail to bargain in good faith by breaching the negotiation ground rules.

WE WILL NOT otherwise interfere with, restrain or coerce employees in the exercise of their rights guaranteed under the Law.

WE WILL take the following affirmative action to effectuate the purposes of the Law:

- Bargain in good faith by adhering to the negotiation ground rules.

TOWN OF DARTMOUTH

DATE

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department of Labor Relations, Charles F. Hurley Building, 1st Floor, 19 Staniford Street, Boston, MA 02114 (Telephone: (617) 626-7132).