

QUINCY SCHOOL COMMITTEE AND QUINCY PARAPROFESSIONAL ASSOCIATION, HOSPITAL, LIBRARY AND PUBLIC EMPLOYEES UNION, AND HOSPITAL, LIBRARY AND PUBLIC EMPLOYEES UNION (HLPE) AND JOHN J. KEEFE, AMY D'OLIMPIO, ET. AL., SI-184 (5/19/86). SUPPLEMENTAL INTERIM ORDER.

108.2 withdrawal of services

108.4 setting requirements under Chapter 150E, Section 9

Commissioners participating:

Maria C. Walsh, Commissioner
Elizabeth K. Boyer, Commissioner

Appearances:

Edward P. Lenox	- Representing the Quincy School Committee
John J. Keefe	- Representing Quincy Paraprofessional Association, Hospital, Library and Professional Employees Union; HLPE; John J. Keefe; Amy D'Olimpio; Mary Beth Phillips and members of the Quincy Paraprofessional Association, Hospital, Library, Public Employees Union

SUPPLEMENTAL INTERIM ORDER

On March 31, 1986, the Labor Relations Commission (Commission) issued an Interim Order in this matter, finding that the members of the Quincy Paraprofessional Association, Hospital, Library and Public Employees (QPA/HLPE) and, specifically, Amy D'Olimpio and Mary Beth Phillips had engaged in a strike within the meaning of G.L. c.150E, Section 9A(a). The Commission ordered all members of the bargaining unit, including D'Olimpio and Phillips, to cease and desist from engaging in any strike, work stoppage, slowdown or other withholding of services. The Commission also retained jurisdiction of the matter to set further requirements as they might become appropriate.

On Wednesday, May 14, 1986, the Quincy School Committee (School Committee) filed a Motion to Amend Strike Petition and Motion to Amend Interim Order, alleging that the members of QPA/HLPE, including D'Olimpio and Phillips, had engaged in further strike activity on May 14, 1986, and that QPA/HLPE, HLPE, and John J. Keefe had induced, encouraged, and condoned a strike. The School Committee asked the Commission to amend its Interim Order to reflect the activities of May 14 and to seek enforcement in Norfolk Superior Court or enter such other orders as the Commission deemed appropriate.

On May 14, 1986, the Commission issued a Notice to the Parties, which was served upon Keefe, HLPE, QPA/HLPE, D'Olimpio and Phillips, informing all parties that an investigation would be conducted on May 15, 1986 at 1 p.m. relative to the



Quincy School Committee and QPA/HLPE and HLPE and John J. Keefe et al., 12 MLC 1774

School Committee's motions. The Commission held the investigation as scheduled and all parties appeared and had an opportunity to present evidence. Pursuant to that investigation, the Commission hereby finds that the members of QPA/HLPE, including D'Olimpio and Phillips, engaged in a strike within the meaning of G.L. c.150E, Section 9A(a) on May 14, 1986, and that QPA/HLPE, HLPE and Keefe induced, encouraged and condoned that strike.

Findings¹

1. On Wednesday May 7, 1986, QPA/HLPE conducted a meeting of QPA/HLPE members during which the QPA/HLPE membership decided to seek a collective bargaining session between QPA/HLPE and the School Committee, to be held on May 14, 1986.
2. At the meeting described in paragraph 1, above, the QPA/HLPE membership decided that all members of QPA/HLPE should attend the anticipated negotiation session on May 14, 1986.
3. Keefe, D'Olimpio and Phillips attended the meeting described in paragraph 1, above.
4. Keefe, D'Olimpio and Phillips are all members of QPA/HLPE's negotiating team. Keefe is the Executive Director of HLPE and D'Olimpio and Phillips are members of QPA/HLPE's Executive Board.
5. Keefe, D'Olimpio and Phillips made no attempt on May 7, 1986, or at any time thereafter, to discourage the QPA/HLPE membership from all attending any negotiations that might be held on May 14, 1986.
6. On May 11, 1986, Keefe mailed Edward Lenox, counsel for the School Committee and a member of the School Committee negotiating team, a letter informing him that a negotiating session had been scheduled for May 14, 1986 at 9 a.m.
7. Lenox received the letter described in paragraph 4, above, on May 13, 1986.
8. On May 13, 1986, Lenox or his representative delivered to Keefe's office a written response. In the written response Lenox stated that he was unaware of any scheduled bargaining meeting and that, in fact, no negotiations were scheduled for May 14, 1986.
9. No representative of the School Committee agreed to hold a negotiating session with QPA/HLPE on May 14, 1986. The Massachusetts Board of Conciliation and Arbitration, which had been supervising the negotiations between the parties, did not schedule a negotiating session for May 14, 1986.

¹ All findings recited herein are in addition to the findings that were recited in the Interim Order issued March 31, 1986.



Quincy School Committee and QPA/HLPE and HLPE and John J. Keefe et al., 12 MLC 1774

10. At 8:15² on the morning of May 14, 1986, Keefe arrived at a parking lot across the street from the School Committee's administrative offices.

11. Between 8:15 a.m. and 9:30 a.m., Keefe was joined by 45 to 55 members of QPA/HLPE, including D'Olimpio and Phillips, all of whom are teacher aides employed by the School Committee.

12. All of the teacher aides referred to in paragraph 11, above, work for the School Committee Monday through Friday between the hours of 8:30 a.m. and 2:15 p.m.³ and were scheduled to work on May 14, 1986.

13. At 9:30 a.m. on May 14, 1986, Keefe and the teacher aides referred to in paragraph 11, above, entered the School Committee's administrative offices and asked to bargain collectively with the School Committee.

14. At 9:40 a.m. on May 14, 1986, Carmen Mariano, Director of Personnel for the School Committee and a member of the School Committee's bargaining team, met with Keefe, D'Olimpio, Phillips and two other members of QPA/HLPE⁴ and informed them that no negotiations were scheduled for May 14 and that he considered the teacher aides to be in violation of the Commission's Interim Order.

15. Keefe and the QPA/HLPE members who had met with Mariano then met with the other QPA/HLPE members from approximately 11:05 a.m. until approximately 11:45 a.m. on May 14, 1986.

16. At noon on May 14, 1986, Keefe telephoned Mariano to inform him that the QPA/HLPE members were not going to return to work, but instead were going to the office of the Mayor of Quincy. Keefe and the QPA/HLPE members did go to the Mayor's office, where they remained until after 2 p.m., waiting for the Mayor to arrive. When he arrived, the Mayor met for a time with Keefe and several of the QPA/HLPE members while the other QPA/HLPE members remained at the Mayor's office.

17. None of the teacher aides referred to in paragraph 11, above, returned to work on May 14, 1986.

DISCUSSION

It is clear from the facts above that there was a strike in progress on Wednesday, May 14, 1986, among the members of QPA/HLPE, including D'Olimpio and Phillips. All parties agree that 45 to 55 teacher aides, members of the QPA/HLPE, were absent without permission from their assigned duties on May 14 between at least 9:30 a.m. and the close of school. No collective bargaining session had been officially scheduled to occur on May 14. The teacher aides who were not at work were

²All times referred to herein are approximate.

³Although hours vary at the different schools, all schools are open between 8:30 a.m. and 2:15 p.m.

⁴The other members of QPA/HLPE waited outside Mariano's office during this discussion.



Quincy School Committee and QPA/HLPE and HLPE and John J. Keefe et al., 12 MLC 1774

absent without authorization, admittedly for the purpose of furthering their collective bargaining objectives. Under these circumstances, there is no doubt that they were concertedly withholding services, in violation of G.L. c.150E, Section 9A(a).⁵

We also have no doubt that the strike was induced, encouraged, and condoned by QPA/HLPE, HLPE and Keefe. The strike was the result of the QPA/HLPE membership's decision on May 7, 1986 to go to Mariano's office on May 14, 1986 rather than go to work. Keefe, D'Olimpio and Phillips, in their official capacities, participated in the May 7 meeting and in the events of May 14, and made no attempt to dissuade the membership from withholding their employment services on May 14. Such participation of union leaders encouraged the membership to withhold services on May 14, and violates G.L. c.150E, Section 9A(a).

WHEREFORE, on the basis of the facts set forth above, we conclude that the QPA/HLPE, and the employees whom it represents, have engaged in a strike, work stoppage, slowdown or withholding of services in violation of Section 9A(a) of G.L. c.150E. We further find that the QPA/HLPE, by the conduct of Keefe, Phillips and D'Olimpio, has induced, encouraged and condoned the unlawful withholding of services.

Accordingly, by virtue of the power vested in the Commission by G.L. c.150E, Section 9A(b), we hereby order that:

1. The QPA/HLPE and the employees whom it represents, including Amy D'Olimpio and Mary Beth Phillips, shall immediately cease and desist from engaging in any strike, work stoppage, slowdown or other withholding of services.
2. The QPA/HLPE, HLPE, and John Keefe, Amy D'Olimpio and Mary Beth Phillips, shall immediately cease and desist from inducing, encouraging, or condoning any strike, work stoppage, slowdown or other withholding of services.
3. The QPA/HLPE, HLPE, John Keefe, Mary Beth Phillips and Amy D'Olimpio shall take necessary action before the start of the next regularly scheduled school day following their receipt of this Supplemental Interim Order to inform the membership of the QPA/HLPE of the provisions of Section 9A(a) of the Law and of the contents of this Supplemental Interim Order.
4. The School Committee shall be responsible for serving QPA/HLPE, HLPE, John Keefe, Amy D'Olimpio and Mary Beth Phillips with a copy of this Supplemental Interim Order.

⁵The School Committee has taken issue with QPA/HLPE's assertion that all of the striking employees are members of the union's bargaining team. We need not decide whether all the employees are members of the bargaining team since we find that no negotiations were scheduled and, thus, no members of the bargaining team were excused from work.



MASSACHUSETTS LABOR CASES

CITE AS 12 MLC 1778

Quincy School Committee and QPA/HLPE and HLPE and John J. Keefe et al., 12 MLC 1774

5. The bargaining representatives of the QPA/HLPE and of the School Committee shall meet at such further mediation sessions as may be directed by the Board of Conciliation and Arbitration.
6. The QPA/HLPE, HLPE, John Keefe, Amy D'Olimpio, Mary Beth Phillips and the School Committee shall notify the Commission at 10 a.m. on Tuesday, May 20, 1986 of the steps taken to comply with this Supplemental Interim Order.
7. The Commission shall retain jurisdiction of this matter to set such further requirements as may be appropriate.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

MARIA C. WALSH, Commissioner
ELIZABETH K. BOYER, Commissioner

