

REVERE SCHOOL COMMITTEE AND REVERE TEACHERS ASSOCIATION AND MASSACHUSETTS TEACHERS ASSOCIATION, SI-202 (9/9/87). INTERIM ORDER.

92.47 motions to dismiss  
105.2 picketing  
108. Strikes  
108.4 setting requirements under Chapter 150E, Section 9

Commissioners Participating:

Paul T. Edgar, Chairman  
Elizabeth K. Boyer, Commissioner

Appearances By:

Paul V. Mulkern, Jr.	- Representing the Revere School Committee
Americo A. Salini	- Representing the Revere Teachers Association
Brian A. Riley	- Representing the Massachusetts Teachers Association

INTERIM ORDER

On September 9, 1987, the Revere School Committee (herein School Committee) filed a petition with the Labor Relations Commission (Commission) pursuant to Section 9A(b) of G.L.c.150E (the Law). The School Committee alleged that the Revere Teachers Association (herein the RTA) and its members had engaged in a strike on September 9, 1987 and that, in essence, the strike had been condoned and encouraged by the TRA's affiliate, the Massachusetts Teachers Association (herein MTA).

The Commission scheduled an investigation to commence at 3:00 p.m. on September 9, 1987 and issued a Notice of Investigation. The School Committee undertook to serve the Notice of Investigation upon the parties.

On September 9, 1987, beginning at approximately 3:00 p.m., an investigation of the School Committee's allegations was conducted by the Commission. On the basis of that investigation, we hereby make the following findings of fact.

FACTS

The RTA represents a bargaining unit of 360 teachers employed by the School Committee. The RTA's statewide affiliate is the MTA.

The most recent collective bargaining agreement between the School Committee and the RTA expired on June 30, 1987. The parties began bargaining for a successor in January 1987. On the RTA's bargaining team were RTA president Richard Champa, RTA negotiating chairperson Carol Tye, RTA member Tim Lordan, and Arthur Pippo, a business agent of the MTA.



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At one of the bargaining sessions Champa said to School Committee member Donald Goodwin in the presence of both parties' negotiating teams, "I'm going to tell you something now and I want you to take me very seriously because you're a first-time member and we don't want any games being played. Myself and my Association will not attend classes at the opening day of school without a contract."

Since January 1987 the parties have had at least fourteen bargaining sessions. At one of these on August 20, 1987, when the parties were going over proposals, Champa said he would not go back to the RTA with the School Committee's proposals and he was going to go back to the RTA and request that they take a strike vote.

September 8, 1987 was teacher orientation day, when it was expected that teachers would show up at their schools for such purposes as getting new assignments and new textbooks. Orientation day lasts as long as a full work day and all teachers customarily attend. However, it is not mandatory. Article 5(B)(4) of the collective bargaining agreement, which governs orientation day, provides: "Teachers will be requested to report one day prior to the opening of school." Superintendent of Schools William Hill testified that in agreeing to this language the School Committee specifically wanted to avoid making attendance compulsory. On September 8, 1987, eight of the 360 bargaining unit members attended orientation day. None of the eight was an official of the RTA.

The parties held their most recent bargaining session from 8:15 p.m. on September 8 to 5:45 a.m. on September 9. They did not reach agreement. At 5:45 Champa packed up and said that he was going to a meeting of the RTA at the Moose Hall. He then left, accompanied by Pippo and two other employees of the MTA, one of whom was Bruce Burgess. A few minutes later, Carol Tye had a discussion with School Committee representatives during which she said she felt very bad about striking but she would do it if it were necessary. Tye then left the meeting.

September 9, 1987 was the first day of school in Revere. On that date, only one of the 360 bargaining unit members showed up for work. That one teacher was not an officer of the RTA. None of the 359 absent teachers provided explanations for their absence.

There are seven schools in Revere: one k-4, six k-8s and one high school. On the morning of September 9, 1987 at least 60 teachers picketed at various entrances to Revere High School, beginning at 7:20 a.m. and ending at 10:00 a.m. Classes begin at Revere High School at 8:10 a.m. Some picketers carried signs saying "Quality Education Requires Adequate Pay" and "No Contract, No Work." Around 9:00 a.m., a School Committee member observed Carol Tye, who was not herself picketing, standing about six feet away from the picket line talking with a RTA member for about ten minutes. Tye works at Revere High School. There was no evidence that any RTA official picketed at Revere High School.

Also on September 9, 1987, around 36 teachers picketed at the Beachmont School between 7:45 and 9:30. Many of these teachers worked at the Beachmont School. The Beachmont School opens at 8:05. Eileen Sullivan, Financial Secretary of the RTA,



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was one of the picketers.

Also on September 9, 1987, around 35 teachers picketed at the Abraham Lincoln School from 7:45 a.m. until at least 8:20 a.m. Around two-thirds of the picketers carried signs reading "No Contract, No Work." All the picketers were gone by 9:00 a.m. At around 11:00 a.m., the principal of the Lincoln School observed RTA president Champa in the vicinity of the Lincoln School and the two "exchanged pleasantries." Champa does not work at the Lincoln School.

There is no evidence that any representative of the MTA was anywhere in the vicinity of the picket lines.

Prior to the investigation, the MTA moved to dismiss the petition on the grounds that the petition itself failed to allege facts sufficient to demonstrate that the MTA induced, encouraged or condoned a strike. At the conclusion of the investigation, the RTA also filed a motion to dismiss on the grounds that the School Committee had failed to produce evidence sufficient to demonstrate the RTA's involvement in the strike.

#### DISCUSSION

Based upon the facts above, we conclude that the teachers represented by the RTA engaged in a strike on Wednesday, September 9, 1987. Accordingly, for the reasons set forth herein, we deny the RTA's Motion to Dismiss.

The Commission can infer the existence of a strike from, inter alia, the absence of nearly 100% of the teachers regularly scheduled to report for classes without excuse or authorization in the context of a dispute over the terms of a successor collective bargaining agreement. Tewksbury School Committee, 12 MLC 1353 (1985); Nashoba Valley Technical High School Committee, 13 MLC 1307 (1986). Moreover, in the instant case, teachers were also observed picketing in front of various schools after the times that the schools were scheduled to be open, with some carrying signs noting "No Contract, No Work." This activity occurred after nearly nine months of bargaining for a successor collective bargaining agreement, during the course of which the RTA President indicated to representatives of the School Committee that members of the bargaining unit represented by the RTA would not start classes unless a successor agreement had been successfully negotiated.

We further note that of the 359 teachers who did not report to work, that number included all of the officers and negotiating team members of the RTA. In addition, we note the presence of the RTA's financial secretary on one of the picket lines and of the RTA's president outside of a school to which he is not assigned. Finally, the RTA president stated at a bargaining session held on August 20, 1987 that he was going to place the issue of a strike vote before the bargaining unit membership. Taken together, we find these facts sufficient to conclude that the RTA induced, encouraged and condoned the strike in violation of the Law.

We find, however, the evidence insufficient to warrant a conclusion that the



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affiliate MTA induced, encourage or condoned the strike. The School Committee offered evidence that an MTA representative was present at the bargaining session in late January at which the RTA president indicated that the RTA would strike on the opening day of school unless the contract was settled, as well as at the session on August 20th at which the RTA president stated that he intended to request a strike vote from the RTA membership. Finally, the School Committee offered evidence that the MTA representative was present when, at the unsuccessful conclusion of the bargaining on the early morning of September 9th, the RTA president stated that he was leaving to attend a meeting of the RTA members. However, there was no evidence offered that any MTA representative was involved in any way in the decision by RTA members to engage in a strike. Accordingly, we grant the MTA's Motion to Dismiss the petition as to the MTA. In view of this ruling, we need not address the RTA's Request for Rulings, submitted at the conclusion of the investigation.

WHEREFORE, on the basis of the facts set forth above, we conclude that the Revere Teachers Association, 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 Revere Teachers Association has induced, encouraged and condoned the strike.

Accordingly, by virtue of the power vested in the Commission by Section 9A(b) of the Law, we hereby issue the following ORDER:

1. The Revere Teachers Association and the employees whom it represents shall immediately cease and desist from engaging in any strike, work stoppage, slowdown, or other withholding of services.
2. The Revere Teachers Association, its officers, agents and members, shall immediately cease and desist from encouraging, condoning or inducing any strike, work stoppage, slowdown or other withholding of services. The Revere Teachers Association shall not permit its officers or agents to encourage, condone or induce any strike, work stoppage, slowdown, or other withholding of services.
3. The Revere Teachers Association shall take necessary action before the start of the next regularly scheduled school day to inform its members of the provisions of Section 9A(a) of the Law and the contents of this Interim Order.
4. The School Committee and the Revere Teachers Association shall continue to bargain in good faith and further, shall continue to participate in mediation as may be directed by the Board of Conciliation and Arbitration.
5. The Revere Teachers Association and the School Committee shall notify the Commission by 9:30 a.m. on September 10, 1987 of the steps taken to comply with this Interim Order.
6. The Commission retains jurisdiction of this matter to set such further requirements as may be appropriate. SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS, LABOR RELATIONS COMMISSION  
PAUL T. EDGAR, CHAIRMAN: ELIZABETH K. BOYER, COMMISSIONER

