

MASSACHUSETTS LABOR CASES

CITE AS 14 MLC 1284

EVERETT SCHOOL COMMITTEE AND EVERETT TEACHERS ASSOCIATION/MTA, SI-208 (11/6/87).
INTERIM ORDER.

- 107. Picketing
- 108. Strikes
- 108.4 setting requirements under Chapter 150E, Section 9

Commissioners participating:

Paul T. Edgar, Chairman
Maria C. Walsh, Commissioner
Elizabeth K. Boyer, Commissioner

Appearances:

- | | |
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| James S. Tobin, Esq. | - Representing the Everett School Committee |
| Lee Weissinger, Esq. | - Representing the Everett Teachers Association |
| Sarah Gibson, Esq. | - Representing the Massachusetts Teachers Association |

INTERIM ORDER

On November 5, 1987, the Everett School Committee (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 Everett Teachers Association, MTA (Association) and its members had engaged in a strike on November 5, 1987.

On November 5, 1987, 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 Association represents a bargaining unit of 343 teachers employed by the School Committee. The most recent collective bargaining agreement between the School Committee and the Association is effective from 9-21-86 to 7-31-88, by its terms. The contract contains, inter alia, a provision for 8% wage increases during each year of the contract. The teachers have not received the 8% wage increase for either year.

On November 4, 1987, Union President Richard Liston spoke with Superintendent Frederick Gibson and informed him that the bargaining unit was scheduled to vote at 6:00 a.m. on November 5, 1987, concerning a "job action."

There are ten schools in Everett. On November 5, 1987, all secondary



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teachers were scheduled to begin their workday at 7:45 a.m. and all elementary school teachers were scheduled to begin their workday at 8:05 a.m. On November 5, 1987, eight teachers in the Everett school system reported for work. Almost all of the remaining teachers were absent without excuse on November 5, 1987.

Teachers were observed picketing outside three school buildings during school hours on November 5, 1987. Many picketing teachers were observed wearing lapel pins that said "E.T.A." and many teachers carried picket signs that read, inter alia, "You've signed the contract now honor it;" "Keep your word," and "Education not Politics."

Union President Liston was observed picketing at Center School during school hours on November 5, 1987.

DISCUSSION

Based upon the facts above, we conclude that the teachers represented by the Association engaged in a strike on November 5, 1987. The Commission can infer the existence of a strike from, inter alia, the absence of nearly 100% of the teachers regularly scheduled to report to classes in the context of a dispute over the payment of wages under the parties' current collective bargaining agreement. Cf. Tewksbury School Committee, 12 MLC 1353, 1359 (1985). Moreover, there is un rebutted evidence that teachers were observed on picket lines holding signs reading "You've signed a contract, now honor it," and "Keep your word" during school hours. Furthermore, the Association President, Richard Liston, was observed on the picket line in front of the Center School on November 5, 1987 during school hours. We further note that many of the teachers observed picketing during school hours wore lapel buttons that read "E.T.A." Taken together, we find these facts are sufficient to conclude that the Association induced, encouraged and condoned the strike in violation of the Law.

We can appreciate the frustration of the Association and its members over not receiving the wage increases included in the parties' current collective bargaining agreement. However, Section 9A prohibits public employee strikes and the teachers will have to use lawful means to pursue any rights they may have under their collective bargaining agreement with the School Committee. We further conclude that there is insufficient evidence to warrant a conclusion that the affiliate MTA induced, encouraged or condoned the strike. There was no evidence of any MTA representative participating in picketing on November 5. Nor was there any other evidence to demonstrate that the MTA or its agents had in any way induced, encouraged, or condoned a withholding of services.

WHEREFORE, on the basis of the facts set forth above, we conclude that the Everett 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 Everett Teachers Association through its officers 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 Everett 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 Everett 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 Everett 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 Everett Teachers Association and its officers 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 of the contents of this Interim Order.
4. The Everett Teachers Association and the School Committee shall notify the Commission at 9:30 a.m. on November 9, 1987 of the steps taken to comply with this Interim Order.
5. The Commission retains jurisdiction of this matter to set further requirements as may be appropriate.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

PAUL T. EDGAR, CHAIRMAN
MARIA C. WALSH, COMMISSIONER
ELIZABETH K. BOYER, COMMISSIONER

