

MASSACHUSETTS LABOR CASES

CITE AS 14 MLC 1403

HUDSON SCHOOL COMMITTEE AND HUDSON EDUCATIONAL ASSOCIATION, SI-211 (12/7/87).
INTERIM ORDER.

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

Commissioners Participating:

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

Appearances:

- | | |
|------------------------|---|
| Stephen J. Brake, Esq. | - Representing the Hudson School |
| Lisa M. Birkdale, Esq. | - Committee |
| Americo Salini, Esq. | - Representing the Hudson Educational Association |

INTERIM ORDER

On December 8, 1987, the Hudson 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 Hudson Education Association (Association) and its members had engaged in a strike on December 7, 1987.

The Commission scheduled an investigation to commence at 3:00 p.m. on December 7, 1987, and a Notice of Investigation was served upon both parties. The investigation took place as scheduled. On the basis of that investigation we hereby make the following findings of fact.

FACTS

The Association represents a bargaining unit of approximately 201 teachers employed by the School Committee. The most recent collective bargaining agreement between the parties expired on August 31, 1987. By mutual agreement of the parties, this agreement was extended first to September 30, 1987, and then to November 30, 1987. The parties have been negotiating for a successor agreement since September, 1986. The parties are currently in mediation under the auspices of the Board of Conciliation and Arbitration, pursuant to c.150E, Section 9.

The parties participated in a bargaining session on December 6, 1987, which began at 7:00 p.m. and ended at 10:40 p.m. No agreement between the parties was reached as a result of these negotiations. On December 7, 1987, approximately 176 members of the bargaining unit, including the Association's officers and members of the Association's bargaining team, failed to report for work and were not absent for excused absences. The average number of daily absences is approximately 10.



Bargaining unit members were observed outside all school buildings during school hours on December 7, 1987. Bargaining unit members carried signs that read, inter alia, "We Want a Fair Contract," and "We Want a Just Contract."

DISCUSSION

Based on the facts above, we conclude that the members of the bargaining unit represented by the Association engaged in a strike on December 7, 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 for class in the context of a dispute between the parties over a successor collective bargaining agreement. Tewksbury School Committee, 12 MLC 1353, 1359 (1985).

The evidence establishes that the parties have been negotiating for a successor collective bargaining agreement since September, 1986, and that on December 6, 1987, the parties engaged in an unsuccessful bargaining session. The evidence further establishes that on December 6, 1987, 88% of the teachers regularly scheduled for work failed to report. Moreover, there is unrebutted evidence that bargaining unit members were observed on picket lines holding signs reading "We Want a Fair Contract" and "We Want a Just Contract" during school hours. Therefore, it is apparent that employees represented by the Hudson Education Association are engaging in a strike, work stoppage or other withholding of services.

Furthermore, no Association officers or bargaining team members reported for work on December 7, 1987. On the basis of this evidence, we find these facts sufficient to conclude that the Association induced, encouraged and condoned the strike in violation of the Law.

The School Committee suggests that no obligation to engage in further bargaining be included in the Commission's order in this case. The Law imposes on both parties the obligation to bargain in good faith and does not excuse that obligation when one side acts unlawfully. In this case the parties have been in mediation, and each has an obligation to continue to mediate their collective bargaining dispute in good faith. Accordingly, we include in our order the obligation of each party to continue to bargain under the auspices of the Board of Conciliation and Arbitration.

CONCLUSION

WHEREFORE, on the basis of the facts set forth above, we conclude that the Hudson Education 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 Hudson Education Association through its officers has induced, encouraged, and condoned the strike in violation of Section 9A(a) of the Law.

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



Hudson School Committee and Hudson Educational Association, 14 MLC 1403

1. The School Committee shall serve a copy of this Interim Order upon appropriate representative(s) of the Hudson Education Association.
2. The Hudson Education 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.
3. The Hudson Education 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 Hudson Education Association shall not permit its officers, or agents to encourage, condone or induce any strike, work stoppage, slowdown or other withholding of services.
4. The Hudson Education Association and its officers shall take necessary action before the start of the next regularly scheduled school day following receipt of service of this Interim Order to inform its members of the provisions of Section 9A(a) of the Law and of the contents of this Interim Order.
5. The School Committee and the Hudson Education Association shall continue to bargain in good faith and further shall participate in mediation as may be directed by the Board of Conciliation and Arbitration (BC & A).
6. The Hudson Education Association and the School Committee shall notify the Commission at 9:30 a.m. on December 8, 1987, of the steps taken to comply with this Order.
7. The Commission shall retain jurisdiction of this matter to set further requirements as may be appropriate.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

PAUL T. EDGAR, CHAIRMAN
ELIZABETH K. BOYER, COMMISSIONER

