

HANOVER SCHOOL COMMITTEE, ET AL. AND MELANIE DROZDOWSKI, AND HANOVER TEACHERS ASSOCIATION, ET AL., 51-217 (9/27/88). INTERIM ORDER.

- 92.211 service
- 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 By:

- Paul J. Kingston, Esq. - Representing the Hanover School Committee
- Brian A. Riley, Esq. - Representing the Hanover Teachers Association (HTA); and the four named HTA officers, both as agents and individuals
- Ann Clarke, Esq. - Representing John Reilly¹

INTERIM ORDER

On September 26, 1988, the Hanover 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 teachers represented by the Hanover Teachers Association, affiliated with the Massachusetts Teachers Association and National Education Association (herein HTA) have been engaged in a strike, slowdown or work stoppage since on or about Monday, September 19, 1988, and that the officers and a certain agent of the HTA have induced, encouraged and condoned the strike.²

The Commission scheduled an investigation to commence at 2:30 p.m. on September 26, 1988, and issued a Notice of Investigation to the parties.³

¹ Attorney Clerke initially entered an appearance on behalf of the Massachusetts Teachers Association (MTA) and its agents, John P. Reilly and Gerald Dlouhy, in their individual and agency capacities. We dismissed the petition with respect to Gerald Dlouhy at the commencement of the investigation. See footnote 3, *infra*. When the petitioner later withdrew without prejudice its petition against the MTA and its agents, see footnote 2, *infra*, Attorney Clarke continued to appear specially on behalf of Mr. Reilly, who remained a named respondent in his alleged capacity as an agent of the HTA.

² and ³, see page 1183



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The investigation began at approximately 2:30 p.m. and on the basis of the investigation, we hereby make the following findings of fact.

FACTS

The HTA represents a bargaining unit of 162 teachers employed by the School Committee.

The most recent collective bargaining agreement between the School Committee and the HTA was effective from July 1, 1985 through June 30, 1988. The parties have been bargaining for a successor agreement since November 1987. Since the commencement of negotiations, the parties have held twelve negotiation sessions of which the last seven have been conducted under the direction of the Massachusetts Board of Conciliation and Arbitration. The last session was held on September 25, 1988, without the conclusion of an agreement. No further negotiation sessions have been scheduled.

There are five schools in Hanover serving approximately 2200 pupils. The reporting time for teachers at the Sylvester and Center elementary schools is 7:50 a.m.; at the Cedar elementary school it is 8:15 a.m.; at the high school it is 7:05 a.m.; and at the junior high school it is 7:30 a.m.

On September 16, 1988, Melanie Drozdowski, President of the HTA, informed the Attorney for the School Committee, Paul J. Kingston, that teachers represented by the HTA had voted unanimously to go, and would go, on strike Monday, September 19, 1988.

On September 19, 1988, of the 162 teachers who were scheduled to report to work, only two did report to work. The remaining teachers including the above-named HTA officers were absent without excuse. On September 20, 1988, all teachers were absent without excuse. On September 21, 1988, all teachers were absent without excuse. On September 22, 1988, all teachers were absent without excuse. On September 23, 1988, all teachers were absent without excuse. On September 26, 1988, all teachers were absent without excuse.

²The School Committee's petition initially also alleged that teachers represented by the Massachusetts Teachers Association (MTA) have been engaged in a strike, slowdown or work stoppage since September 19, 1988 and that certain agents of the MTA have induced, encouraged and condoned the strike. The School Committee withdrew without prejudice its allegations against the MTA and its agents during the investigation.

³The School Committee served the Notice of Investigation upon the individual respondents and upon the HTA. The School Committee failed to provide an affidavit of service of the Notice upon Gerald Dlouhy, therefore we dismissed the petition with respect to Mr. Dlouhy at the commencement of the investigation. The remaining individual respondents, Melanie Drozdowski, Robert Barra, Ralph Mills, Wilma Sanders and John Reilly challenged the sufficiency of the service on the grounds that the affidavits of service did not state the place of service or indicate how
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On September 19, 20, and 21, 1988, at approximately 7:30 a.m. each day, Kenneth R. Johnson, Sr., Assistant Superintendent of Schools, observed teachers picketing at the high school. Teachers at the high school are scheduled to report for duty at 7:05 a.m. On September 19 and 20, 1988, between 8:10 and 8:25 a.m., Assistant Superintendent Johnson observed union officers and others picketing at the Sylvester elementary school. Teachers are scheduled to report for work at the Sylvester elementary school at 7:50 a.m. Assistant Superintendent Johnson also observed picketing at the Junior high school at approximately 7:50 a.m. on September 19, 1988. Teachers are scheduled to report for work at the junior high school at 7:30 a.m. Assistant Superintendent Johnson observed Melanie Drozdowski, HTA President, Robert Barra, HTA Vice-President, and Ralph Miller, HTA Treasurer, picketing at the high school on September 19, 20 and 21 at approximately 7:45 a.m. Assistant Superintendent Johnson also observed Ms. Drozdowski and Mr. Barra picketing at the high school on September 26, 1988 at approximately 7:20 a.m. Assistant Superintendent Johnson observed Wilma Sanders, HTA Secretary, picketing at the Cedar elementary school on September 19, 20 and 21, 1988 between 8:15 a.m. and 9:00 a.m., and on September 26, 1988 at approximately 8:15 a.m. None of these individuals was authorized to be absent from school during the hours that they were observed on the picket line.

Teachers on the picket lines at the schools were observed carrying a variety of picket signs including "Let's settle," "Let's negotiate," "Mike, there's a strike," and "5+5+5=21." Assistant Superintendent Johnson observed John Reilly, an employee of the Massachusetts Teachers Association, walking and speaking with picketers on September 19, 1988 at the high school at approximately 7:30 a.m., at the junior high school at approximately 7:50 a.m. and at the Sylvester elementary school at approximately 8:15 a.m. On September 20, 1988, Mr. Reilly was observed walking and speaking with picketers at the high school at approximately 7:30 a.m. and at the Sylvester elementary school at approximately 8:25 a.m. Mr. Reilly was also observed on September 21, 1988 at approximately 7:30 a.m. at the high school walking with picketers. Mr. Reilly is not a public employee. He has led the negotiations for the HTA at the bargaining table for the past twenty years, and represents the HTA in its current negotiations. He has filed prohibited practice charges on behalf of the HTA with the Commission and has corresponded with the School Committee on behalf of the HTA.

DISCUSSION

Based upon the facts above, we conclude that the teachers represented by the HTA have been engaged in a strike beginning on September 19, 1988, and continuing to date.

3 (continued)

the process server knew the identity of the respondents since service was in hand. We have reviewed the affidavits and find service to be sufficient notice to the respondents pursuant to 456 CMR 16.03.



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The Commission can infer the existence of a strike from, *inter alia*, the absence without excuse or authorization of virtually 100% of the teachers regularly scheduled to report to work in the context of a dispute over the terms of a successor collective bargaining agreement and the fact that employees carried picket signs outside of schools during working hours on September 19, 20, 21 and 26, 1988. See e.g., Everett School Committee, 14 MLC 1284 (1987); Tewksbury School Committee, 12 MLC 1353, 1359 (1985).

We further note that all the named officers of the HTA were among the teachers who did not report for work on September 19, 20, 21, 22, 23, and 26, 1988. We have found that HTA President Drozdowski informed the School Committee attorney that a strike vote had been taken on September 16, 1988, and that throughout the dates of the picketing, the named officers of the HTA picketed schools during working hours. We infer from these facts that the HTA was both aware of and involved in the concerted withholding of services by the employees. Taken together, we find these facts are sufficient to conclude that the HTA induced, encouraged and condoned the strike in violation of the Law. See Northeast Metropolitan Regional Vocational School Committee, 13 MLC 1213, 1216 (1986).

CONCLUSION

WHEREFORE, on the basis of the facts set forth above, we conclude that the following have induced, encouraged and condoned a strike, work stoppage, slowdown, or withholding of services in violation of Section 9A(a) of G.L. c.150E by teachers represented by the Hanover Teachers Association (HTA): MELANIE DROZDOWSKI, Individually and as President of the HTA; ROBERT BARRA, Individually and as Vice-President of the HTA; RALPH MILLER, Individually and as Treasurer of the HTA; WILMA SANDERS, Individually and as Secretary of the HTA; JOHN P. REILLY, as agent of the HTA⁴; and the HANOVER TEACHERS ASSOCIATION. We further conclude that the above-listed officers of the HTA in both their individual and representative capacities, the HTA, and the employees whom it represents, are engaged in a strike, work stoppage, slowdown or withholding of services in violation of Section 9A(a) of G.L. c.150E.

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 Hanover Teachers Association, affiliated with the Massachusetts Teachers Association, and the National Education Association, its

⁴There was no evidence that John P. Reilly was either a member of the bargaining unit or a "public employee" within the meaning of Section 1 of the Law. There was sufficient evidence, however, that he was walking and speaking with picketers while serving as lead negotiator in bargaining sessions on behalf of the HTA; therefore we find that he was acting on behalf of the HTA to induce, encourage and condone a strike.



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officers and agents, Mealnie Drozdowski, Robert Barra, Ralph Miller, Wilma Sanders and John P. Reilly, 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 Hanover Teachers Association, affiliated with the Massachusetts Teachers Association and National 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 Hanover Teachers Association, affiliated with the Massachusetts Teachers Association and National Education Association, shall take necessary steps to prohibit its officers or agents from engaging in conduct to encourage, condone or induce the unlawful strike, work stoppage, slowdown or other withholding of services which the Commission has found to have been occurring in this case.
3. The Hanover Teachers Association, affiliated with the Massachusetts Teachers Association, and National Education Association, and its officers and agents, 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 School Committee and the Hanover Teachers Association, affiliated with the Massachusetts Teachers Association and National 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.⁵
5. The Hanover Teachers Association, affiliated with the Massachusetts Teachers Association and National Education Association, and the School Committee, shall notify the Commission at 9:30 a.m. by telephone or by reporting to the Commission in person on September 28, 1988, of the steps taken to comply with this Interim Order.
6. 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

⁵The School Committee specifically requested that the Commission order the parties to factfinding pursuant to Section 9 of the Law. We believe that this request and the arguments in its support are properly made to the Board of Conciliation and Arbitration as part of the mediation process.

