

MASSACHUSETTS LABOR CASES

CITE AS 17 MLC 1610

LOCAL 285, SEIU, AFL-CIO AND CITY OF BOSTON, MUPL-3722 (3/21/91).
DECISION ON APPEAL OF A HEARING OFFICER DECISION.

76. Refusal to Bargain in Good Faith
92.51 appeals to full commission
108.2 withdrawal of services
108.4 setting requirements under Chapter 150E, §9

Commissioners participating:

Maria C. Walsh, Chairperson
Haidee A. Morris, Commissioner
William G. Hayward, Jr., Commissioner

Appearances:

Cynthia Denton, Esq. - Representing the City of Boston
David Rome, Esq. - Representing Local 285, SEIU

DECISION ON APPEAL OF A HEARING OFFICER DECISION

On August 31, 1989, the City of Boston (City) filed a charge of prohibited practice with the Labor Relations Commission (Commission) alleging that Local 285, Service Employees International Union, AFL-CIO (Local 285) had violated Sections 10(b)(1) and (2) of G.L. c.150E (the Law) by engaging in an unlawful work stoppage on August 3 and 4, 1989. After investigating the City's charge, the Commission issued its own Complaint of Prohibited Practice on March 9, 1990 alleging that Local 285 engaged in a sick-out strike on August 3 and 4, 1989 for the purpose of coercing the City into modifying its bargaining position, in violation of Sections 10(b)(1) and (2) of the Law.

On June 29, 1990, the City filed an uncontested written motion requesting the Commission to take administrative notice of its findings in Interim Order in Case No. SI-223, reported at 16 MLC 1137 (1989). The parties presented no further evidence, and Hearing Officer Judith Neumann issued a decision on January 17, 1991 finding that, on August 3 and 4, 1989, certain LPNs employed by the City and represented by the Union engaged in a sick-out that was encouraged and condoned by the Union. She also found that the work stoppage occurred in the context of

In that case, the Commission concluded that the L.P.N.s represented by Local 285 had been engaged in a sick-out strike beginning on August 3, 1989 and continuing through August 4, 1989 and that Local 285 and certain of its officers had engaged in and condoned the strike.



Local 285, SEIU, AFL-CIO and City of Boston, 17 MLC 1610

negotiations for a successor agreement, was designed to affect the conduct of the negotiations, and was unlawful under Section 9(A)(a) of the Law. Based on those facts, she concluded that, under the Commission's holding in Holbrook Education Association, 14 MLC 1737 (1988), Local 285 violated Sections 10(b)(2) and (1) of the Law by engaging in an unlawful work stoppage on August 3 and 4, 1989.

On February 1, 1991, Local 285 filed an appeal of the hearing officer's decision. Both parties have filed supplementary statements, which we have carefully considered.

Facts

Both parties agreed that the hearing officer could take administrative notice of the findings of fact in Case No. SI-233, and neither party has challenged the hearing officer's characterizations of those facts or the inferences she has drawn from them. Therefore, we adopt the findings in Case No. SI-223, as amplified by the hearing officer in her decision, and do not restate them here.

Opinion

The Commission has reviewed and considered the hearing officer's decision in this matter and, based on the facts agreed to by the parties as characterized by the hearing officer, we find no error in the hearing officer's legal conclusions that would warrant reversing or modifying that decision. The hearing officer found that the work stoppage was intended to affect the conduct of the parties' negotiations. In view of this fact, we see no reason to depart from the precedent established in Holbrook Education Association, 14 MLC 1737 (1988). Therefore, we affirm the hearing officer's conclusion that Local 285 engaged in an unlawful work stoppage on August 3 and 4, 1989 in violation of Sections 10(b)(2) and (1) of the Law and her Order that Local 285 cease and desist from that conduct and post an appropriate notice.²

Order

WHEREFORE, based on our opinion above, IT IS HEREBY ORDERED that Local 285 shall:

1. Cease and desist from:

2

We note that Local 285 did not raise the issue of mootness either to the hearing officer or on appeal. Therefore, we need not consider whether this case is moot, as we did in Holbrook Education Association.



Local 285, SEIU, AFL-CIO and City of Boston, 17 MLC 1610

- a. Failing to bargain in good faith by illegally withholding required services to obtain concessions at the bargaining table;
 - b. In any like manner, interfering with, restraining or coercing the City in the exercise of its rights guaranteed under the Law.
2. Take the following affirmative action that will effectuate the policies of the Law:
- a. Immediately post and leave posted for a period of thirty (30) days copies of the attached Notice to Employees in conspicuous places where notices to employees of the City at Boston City Hospital are usually posted and where employees usually congregate;
 - b. Notify the Commission in writing within thirty (30) days of receipt of this Decision and Order of the steps it has taken to comply with it.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

MARIA C. WALSH, CHAIRPERSON

HAIDEE A. MORRIS, COMMISSIONER

WILLIAM G. HAYWARD, JR., COMMISSIONER



MASSACHUSETTS LABOR CASES

CITE AS 17 MLC 1613

Local 285, SEIU, AFL-CIO and City of Boston, 17 MLC 1610

NOTICE TO EMPLOYEES
POSTED BY ORDER OF
THE MASSACHUSETTS LABOR RELATIONS COMMISSION
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS

The Labor Relations Commission has ruled that Local 285, Service Employees International Union, AFL-CIO (Local 285) has committed a prohibited labor practice in violation of Sections 10(b)(2) and (1) of G.L. c.150E (the Law) by engaging in an illegal withholding of services by LPNs at Boston City Hospital on August 3 and 4, 1989 to obtain concessions at the bargaining table.

WE WILL NOT refuse to bargain in good faith with the City of Boston (City) by illegally withholding required services to obtain concessions at the bargaining table.

WE WILL NOT in any like manner interfere with, restrain, or coerce the City in the exercise of its rights protected under the Law.

For Local 285, Service Employees
International Union

