
COMMONWEALTH OF MASSACHUSETTS, COMMISSIONER OF ADMINISTRATION AND FINANCE AND ALLIANCE, AFSCME-SEIU, SUP-2346 (1/13/81). Decision on Appeal of Hearing Officer's Decision.

- (10 Definition)
 - 12. Municipal Employee
- (30 Bargaining Unit Determination)
 - 35.85 militia
- (90 Commission Practice and Procedure)
 - 92.51 appeals to full commission

Commissioners participating:

Phillips Axten, Chairman
Joan G. Dolan, Commissioner

Appearances:

Vahan Vartanian	- Representing the Military Division
John F. McMahon, Esq.	- Representing the Alliance, AFSCME-SEIU, AFL-CIO

DECISION ON APPEAL
OF HEARING OFFICER'S DECISION

Statement of the Case

This is a review of a decision issued by Hearing Officer Robert B. McCormack on March 4, 1980. The hearing officer concluded that the Commonwealth of Massachusetts (Commonwealth) had violated Sections 10(a)(5) and (1) of General Laws Chapter 150E (the Law) in that it had refused to recognize the Alliance, AFSCME-SEIU (Union) as the exclusive bargaining representative of persons employed as "armorers" in the Military Division.¹ A representative of the Military Division, rather than the Commonwealth's Office of Employee Relations, filed a timely appeal pursuant to Commission Rules 402 CMR 13.13. We affirm.

OPINION

We note at the outset that, in its supplementary statement, the Military Division has presented evidence which was not in the record before the hearing officer. Such evidence is inappropriate on appeal, and accordingly we have not considered it. Moreover, we have reviewed the hearing officer's conclusions of law, and we find no error.²

¹The full text of the hearing officer's decision is reported at 6 MLC 1976 (H.O. 1980).

²This case raises the issue of whether an individual agency of the Commonwealth has standing to file an appeal of a hearing officer's decision. As correctly stated in the hearing officer's jurisdictional findings, the Commonwealth, acting through the Commissioner of Administration and Finance, is the employer of state employees (footnote continued on following page)



Commonwealth of Massachusetts, Commissioner of Administration and Finance and Alliance, AFSCME-SEIU, 7 MLC 1740

ORDER

WHEREFORE, on the basis of the foregoing, IT IS HEREBY ORDERED pursuant to G.L. Chapter 150E, Section 11 that the Commonwealth of Massachusetts, acting through the Commissioner of Administration and Finance, shall:

1. Cease and desist from restraining, coercing, and interfering with employees in their exercise of rights under the Law.
2. Cease and desist from refusing to bargain in good faith with the Union concerning persons employed as armorers in the Military Division.

The Commonwealth of Massachusetts, acting through the Commissioner of Administration and Finance, shall take the following affirmative action which we find will effectuate the policies of the Law:

1. Upon request, bargain collectively in good faith with the Alliance, AFSCME-SEIU, AFL-CIO, by processing the grievances of armorers and otherwise extending to them all benefits of the collective bargaining agreement.
2. Post in a conspicuous place, where notices to armorers are customarily posted, and leave posted for a period of not less than thirty (30) days, the appended Notice to Employees.
3. Notify the Commission within ten (10) days of receipt of this Decision and Order of the steps taken to comply herewith.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

PHILLIPS AXTEN, Chairman
JOAN G. DOLAN, Commissioner

²(footnote continued from previous page)
under Section 1 of the Law. The Commissioner of Administration and Finance has in turn designated the Office of Employee Relations (OER) to represent the Commonwealth in labor relations matters, including litigation before this agency. We need not now resolve whether, at least where OER has no objection, the state agency involved in a case before us has standing to appeal a hearing officer's decision.

