

STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD

In the MATTER of
WARREN SCHOOL COMMITTEE
- and -
NEA WARREN

CASE NO. ULP-4184

D E C I S I O N

- and -

O R D E R

The above matter comes before the Board on the unfair labor practice charge filed on October 5, 1987, and the Complaint that the Board subsequently issued on January 5, 1988, which charge indicates in substance that the Warren School Committee (hereinafter referred to as the Respondent) had refused and continues to refuse to implement an arbitration award in violation of the Rhode Island State Labor Relations Act.

At the outset, NEA Warren (hereinafter referred to as the Petitioner) submitted certain exhibits which were duly marked and introduced into evidence. The first exhibit was the arbitrator's award of Parker Denaco dated March 19, 1986. The second exhibit which was marked as Petitioner's No. 2 was the Superior Court pleadings entitled "Motion to Vacate Arbitration Award" Civil Action 86-1811 entitled Warren School Committee versus NEA Warren. Petitioner's No. 3 was the answer by the NEA Warren and Petitioner's No. 4 was a letter from Mr. Piccirilli to the Clerk of the Superior Court.

Testimony began with the examination of Andrew Duperron. Mr. Duperron indicated that he held the position of president with NEA Warren. He indicated that he was the president at the time that the arbitrator's decision was handed down.

The Petitioner pointed to Paragraph 2 in the arbitrator's award which indicated that for the 1985/1986 school year, "the parties will meet forthwith to agree on up to ten additional release time days for that particular school year". Mr. Duperron indicated this did not occur. He also indicated that ten additional release time days provided in the '85/'86 school year, subsequent to March 19, 1986, were not provided by the Respondent. The Petitioner also pointed to Paragraph 3 indicating the following: "To the extent appropriate members of the bargaining unit are not accorded the full fifteen release time days referenced in Article VII, Section C of the Collective Bargaining Agreement, they shall be entitled to compensation for any deficiency less than that number; said compensation to be calculated consistent with the method enumerated on Page 21 above". Mr. Duperron indicated that members of the bargaining unit were not paid compensation pursuant to that paragraph. The

Petitioner then had Mr. Duperron calculate what was thought to be the amount of time to be compensated pursuant to the arbitrator's award.

The Respondent argues that certain portions of the arbitrator's award were, in fact, complied with and that certain portions of the award have not been complied with. They argue that the arbitrator found in Paragraph 1 that there had been a violation of Article VII, Section C of the agreement by not having scheduled fifteen release time days. Paragraph 2 stated that the parties would meet forthwith to agree upon up to ten additional release time days for the 1985/1986 school year. They argue that the evidence is clear that there was a meeting between the parties and that the parties did agree to submit a request for release time days for the remainder of '85/'86 school year. Thus, they argue, there has been a complete compliance with Paragraph 2 of the award.

Paragraph 3 of the award says "to the extent that the appropriate members are not accorded the fifteen days, they shall be entitled to compensation".

The Respondent argues that during the days that release time was not scheduled, those days began at 7:40 a.m. and ended at approximately 2:30 p.m. They point to the testimony of Mr. Duperron who indicated that on the days when release time was scheduled that the workday started at 7:40 a.m. and ended at 2:30 p.m. Thus, on every specific workday, whether the teachers were scheduled for release time or not, they did not exceed the contractually mandated time limits. They point to exhibit Number 5. They argue that each teacher in the Warren school system received the contractual salary for the contractual work year, and that to allow them to win this case would be to grant them additional amounts for not working. They argue that we would have totally different issue and case here if the teachers involved were required to do more work than what was required by contract. That is, if they had to work 182 days then, the Respondent argues, they would be entitled to additional compensation. If they had to work beyond the workday to perform those duties, they would be entitled to additional compensation. The Respondent argues that teachers in Warren only work the 180 days, 6 3/4 hour days, and were compensated in full for that work. The additional monies are not for work performed.

The Petitioner, on the other hand, indicates that there is simply a very narrow issue involved in this case, namely, has the school committee implemented the arbitrator's award. They argue that this Board is not in the business of hearing grievances or of reviewing arbitrator's award.

Without going into a further recitation of other aspects of the testimony, suffice it to say that the Board believes that an unfair labor practice charge has been committed by the Respondent in that they have not complied with the terms of the arbitrator's award. In fact, the Respondent was most candid in its presentation before the Board and did not attempt to hide the fact that it had not fully complied with all of the terms and conditions of the

arbitrator's award. Rather, they proffered arguments to the Board in an attempt to show that there were mitigating circumstances which would not allow the Respondent to fully comply with the award.

However, as we have indicated in other cases involving this same issue, the Board cannot delve into the motives of why an arbitration award had not been complied with. It appears that the statutory enactment, namely, Rhode Island General Law 28-7-13(11) makes a simple, concise statement to the effect that the failure to "implement an arbitrator's award" is an unfair labor practice charge. It contains no mitigating provisos.

Consequently, as indicated above, the Petitioner has proven the material allegations of his charge and for the foregoing reasons, the Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Warren School Committee is a duly constituted committee within the State of Rhode Island, a municipal corporation, duly organized under the Constitution and the General Laws of Rhode Island, with its headquarters on Main Street, Warren, Rhode Island.

2. That NEA Warren is a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection.

3. The School Committee has refused and continues to refuse to implement an Arbitration Award in violation of the Act.

4. The Petitioner filed an unfair labor practice charge with the Board on October 5, 1987.

5. The Board issued an Unfair Labor Practice Complaint on January 5, 1988, which Complaint was served on the Respondent, its agents, servants and employees.

6. On March 19, 1986, arbitrator, Parker Denaco, handed down his award between the respective parties.

7. The Respondent moved to vacate the Arbitration Award by filing a Complaint in the Superior Court entitled Warren School Committee vs NEA Warren, CA 86-1811.

8. Although an answer was filed on behalf of the Respondent, the court has not acted upon the merits of the Complaint that was filed out, as of the date of the Decision of this Board in this case, there has been no order from the Superior Court vacating the Arbitration Award.

9. Certain portions of the Arbitration Award have been complied with.

10. Other portions of the Arbitration Award have not been complied with.

11. There has not been full compliance of the Arbitration Award of Parker Denaco dated March 19, 1986.

CONCLUSION OF LAW

1. The Petitioner has proved by a fair preponderance of credible evidence that the Respondent has not fully complied with the arbitrator's award dated March 19, 1986.

2. The failure to fully comply with all of the terms of the arbitrator's award is an unfair labor practice which is prohibited by the pertinent provisions of Rhode Island General Law 28-7-13(11).

ORDER

WHEREFORE, the Rhode Island State Labor Relations Board directs the Respondent to fully comply with all the provisions of the arbitrator's award dated March 19, 1986, forthwith.

RHODE ISLAND STATE LABOR RELATIONS BOARD

s/ Joseph V. Mulvey
Chairman

s/ Glenn Edgecomb
Member

s/ Daniel Beardsley, Jr.
Member

Entered as order of the
Rhode Island State Labor
Relations Board

DATED: April 18, 1988

BY: John H. Winter
John H. Winter, Administrator