

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF :
:
RHODE ISLAND STATE LABOR :
RELATIONS BOARD :
:
-AND- :
:
STATE OF RHODE ISLAND, :
DEPARTMENT OF TRANSPORTATION :
:
CASE NO: ULP- 5370

DECISION AND ORDER OF DISMISSAL

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board"), on an Unfair Labor Charge (hereinafter "Charge"), dated November 10, 1998 and filed on November 13, 1998, by Local 400, I.F.P.T.E. (hereinafter "Union").

The Charge alleged:

As a result of Local 400, I.F.P.T.E. member, John P. Ryan's filing of an October 29, 1998 grievance alleging that his (Ryan's) job and duty assignment violated the collective bargaining agreement, he was effectively relieved of all his job duties and his position. Employee retribution against Union Members because of their attempts to receive the benefits of their contract violates their rights as guaranteed by R.I.G.L. 28-7-12 and specifically is an unfair labor practice per section 28-7-13 (10). Ann M. Holland's October 29, 1998 job action against Local 400 member John P. Ryan violates R.I.G.L. 28-7-13 (10).

Following the filing of the Charge, an informal conference was held on December 7, 1998 between representatives of the Union and Respondent and an Agent of the Board. The informal conference failed to resolve the Charge and the Board issued the instant Complaint on September 7, 2000. The Employer did not file an Answer to the Complaint. A formal hearing on this matter was scheduled for August 6, 2002. On July 18, 2002, the Employer filed a Motion to Dismiss pursuant to the Rhode Island Supreme Court's June 14, 2002 decision in State of Rhode Island, Department of Environmental Management v Rhode Island State Labor Relations Board, M.P. No. 2000-372.

FINDINGS OF FACT

- 1) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Union 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 and protection, and as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.

- 3) Following the filing of the Charge, an informal conference was held on December 7, 1998 between representatives of the Union and Respondent and an Agent of the Board. A formal hearing was scheduled for this matter for August 6, 2002.
- 4) On June 14, 2002, the Rhode Island Supreme Court issued a decision in State of Rhode Island, Department of Environmental Management v Rhode Island State Labor Relations Board, M.P. No. 2000-372. In this decision, the Court ruled that, pursuant to the doctrine of election of remedies, the Board did not have jurisdiction to hear an unfair labor practice charge when a grievance has been filed seeking essentially the same relief as sought under its charge of unfair labor practice.
- 5) On or about July 18, 2002, the Employer filed a Motion to Dismiss arguing that, pursuant to the DEM case, the Board did not have jurisdiction to hear the same. Based upon this Motion, the formal hearing was postponed.
- 6) The Union did not respond or object to the Motion to Dismiss in any manner.
- 7) The Board finds that the relief sought from this Board is essentially the same as the relief sought from the grievance arbitration process.

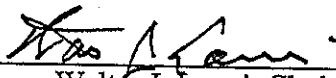
CONCLUSIONS OF LAW

- 1) As a result of the decision in State of Rhode Island, Department of Environmental Management v Rhode Island State Labor Relations Board, M.P. No. 2000-372, the Board does not have subject matter jurisdiction to hear the within complaint.

ORDER

- 1) The Unfair Labor Practice Charge and Complaint in this matter are hereby dismissed.

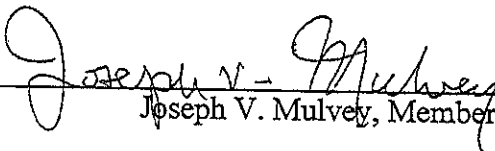
RHODE ISLAND STATE LABOR RELATIONS BOARD



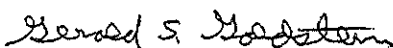
Walter J. Lanni, Chairman



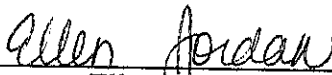
Frank J. Montanaro, Member



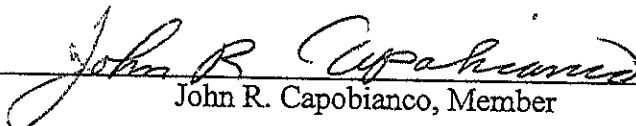
Joseph V. Mulvey, Member



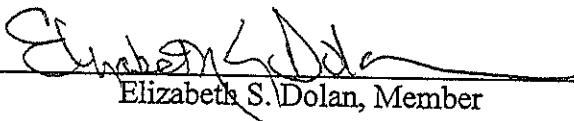
Gerald S. Goldstein, Member



Ellen T. Jordan, Member



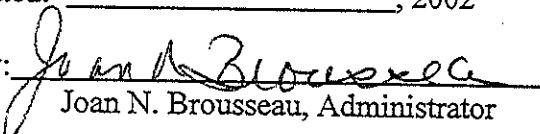
John R. Capobianco, Member



Elizabeth S. Dolan, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: November 13, 2002

By: 
Joan N. Brousseau, Administrator