

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	:	CASE NO: ULP-5388
	:	
-AND-	:	
	:	
STATE OF RHODE ISLAND,	:	
DEPARTMENT OF CORRECTIONS	:	

DECISION and ORDER of DISMISSAL

TRAVEL OF CASE

The above entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter Board), on an Unfair Labor Practice Complaint (hereinafter Complaint), issued by the Board against the State of Rhode Island, Department of Corrections (hereinafter Employer), based upon an Unfair Labor Practice Charge (hereinafter Charge), dated March 23, 1999, and filed on March 31, 1999, by the Rhode Island Brotherhood of Correctional Officers (hereinafter Union).

The Charge alleged:

“The employer has violated Title 28, Chapter 7, Section 13 (1), (5), and (10). On or about March 10, 1999, the employer threatened and attempted to intimidate Ronald Brodeur, a member of the Brotherhood’s Negotiating Team, by sending two State Police officers to his home on the basis of protected statements made during contract negotiations.

Following the filing of the Charge, an informal conference was held on May 24, 1999, between representatives of the Union and Respondent and an Agent of the Board. On May 27, 1999, the Board met with its Agent to review the results of her investigation and directed her to conduct a second informal hearing for additional information. The informal conferences failed to resolve the Charge, and the Board issued the instant Complaint on April 7, 2000. The Employer filed its Answer to the Complaint on April 20, 2000, denying the allegations contained in paragraphs 3 and 4 of the Complaint.

A formal hearing on this matter was held on April 19, 2001. Upon conclusion of the hearing, both the Employer and the Union submitted written briefs. In arriving at the Decision and Order herein, the Board has reviewed and considered the testimony and evidence presented and arguments contained within the post hearing briefs.

DISCUSSION

The relevant facts in this case are simple and undisputed. In March, 1999, the Employer and the Union were engaged in protracted, extremely contentious and bitter contract negotiations. During a collective bargaining session on March 10, 1999, the Employer's Chief negotiator, Mr. Alan Drachman, made a series of confrontational statements and comments concerning the ultimate result of the parties' collective bargaining. He claimed that the Employer would prevail on all of its issues, because the Employer controlled the State Courts in Rhode Island, and his manner was hostile and arrogant. In response, one of the members of the Union's negotiating team, Captain Ronald Brodeur, retorted back to Mr. Drachman, "If you keep poking the tiger's cage, you may get your slam dunk, but there will be some casualties on the way to the courthouse steps." Upon the conclusion of the negotiating session, Mr. Brodeur's comments were relayed to Dr. Robert Carl, the Director of the Department of Administration for the State of Rhode Island. Dr. Carl was so upset by the comments that he called Colonel Edmund Culhane, the Superintendent of the Rhode Island State Police, to discuss the matter. Colonel Culhane decided to have two Detectives speak to Captain Brodeur to determine whether there was any cause for alarm as a result of this statement. The two Detectives visited Captain Brodeur, at his home, the same evening for approximately 10-15 minutes. Their conduct was professional and courteous and Captain Brodeur was not bothered, intimidated or concerned about the visit. He testified that the visit had no impact on him, and that he continued to represent the Union the same as he always had for the previous twenty years. Captain Brodeur was not reprimanded, disciplined or rebuked in any way for his comments.

The Union argues that the circumstances surrounding the interrogation of Captain Brodeur would tend to intimidate a reasonable person in his position (even though it did not intimidate Captain Brodeur personally), and that it must therefore be determined to be an unfair labor practice. Under the circumstances of today's society, where work place violence has become almost common, and considering that the members of this particular bargaining unit carry firearms, this Board does not believe that the Employer's action of reporting the incident to the State Police was an overt act of intimidation or coercion in any way, shape or form. While Captain Brodeur's explanation that his statement was rhetoric, and a matter of speech, is certainly plausible and acceptable, it is also equally plausible that Captain Brodeur's reference to

“casualties on the courthouse steps” could reasonably create credible cause for alarm in the minds of the Employer’s management team. This Board does not believe that a simple, 10-15 minute, courteous and professional conversation by members of the State Police was intended to, or did create, any intimidation; and we do not find that the mere inquiry by the State Police, under these circumstances, is an unfair labor practice.

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 or protection; and as such, is a “Labor Organization” within the meaning of the Rhode Island Labor Relations Act.
- 3) In March, 1999, the Employer and the Union were engaged in protracted, extremely contentious and bitter contract negotiations. During a collective bargaining session on March 10, 1999, the Employer’s Chief negotiator, Mr. Alan Drachman, made a series of confrontational statements and comments concerning the ultimate result of the parties’ collective bargaining. He claimed that the Employer would prevail on all of its issues, because the Employer controlled the State Courts in Rhode Island, and his manner was hostile and arrogant.
- 4) In response, one of the members of the Union’s negotiating team, Captain Ronald Brodeur, retorted back to Mr. Drachman , “If you keep poking the tiger’s cage, you may get your slam dunk, but there will be some casualties on the way to the courthouse steps.”
- 5) Upon the conclusion of the negotiating session, Mr. Brodeur’s comments were relayed to Dr. Robert Carl, the Director of the Department of Administration for the State of Rhode Island. Dr. Carl was so upset by the comments that he called Colonel Edmund Culhane, the Superintendent of the Rhode Island State Police, to discuss the matter. Colonel Culhane decided to have two Detectives speak to Captain Brodeur to determine whether there was any cause for alarm as a result of this statement.
- 6) The two Detectives visited Captain Brodeur, at his home, the same evening for approximately 10-15 minutes. Their conduct was professional and courteous and Captain

Brodeur was not bothered, intimidated or concerned about the visit. He testified that the visit had no impact on him, and that he continued to represent the Union the same as he always had for the previous twenty years. Captain Brodeur was not reprimanded, disciplined or rebuked in any way for his comments.

CONCLUSIONS OF LAW

- 1) The Union has not proven, by a fair preponderance of the credible evidence, that the Employer has committed a violation of R.I.G.L. 28-7-13 (1), (6) or (10).

ORDER

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

RHODE ISLAND STATE LABOR RELATIONS BOARD

Walter J. Lanni

Walter J. Lanni, Chairman

Frank J. Montanaro

Frank J. Montanaro, Member

Joseph V. Mulvey

Joseph V. Mulvey, Member

Gerald S. Goldstein

Gerald S. Goldstein, Member

Ellen L. Jordan

Ellen L. Jordan, Member

John R. Capobianco

John R. Capobianco, Member

Elizabeth S. Dolan

Elizabeth S. Dolan, Member

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

Dated: January 10, 2002

By: *Joan N. Brousseau*
Joan N. Brousseau, Administrator