

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- : CASE NO: ULP- 5493
:
STATE OF RHODE ISLAND, :
DEPARTMENT OF LABOR & TRAINING: :
:
_____:

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 September 12, 2000, and filed on September 14, 2000, by RIESSA, Local 401, SEIU (hereinafter "Union").

The Charge alleged:

Since on or about August 30, 2000, the employer unilaterally transferred employees Iris Kinder, Sharlene Lundy, Charlene Morris, Melissa Repzi, and Brenda Sacchetti, without notice or an opportunity to bargain, in violation of G.L. s 28-7-13 (6) and (10).

Following the filing of the Charge, an informal conference was held on October 2, 2000, 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 July 10, 2001. The Employer filed its Answer to the Complaint on July 23, 2001, denying the allegations contained in paragraphs 3 and 4 of the Complaint. A formal hearing on this matter was scheduled for August 8, 2002. On August 13, 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 October 2, 2000, between representatives of the Union and Respondent and an Agent of the Board. A formal hearing was scheduled for August 8, 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 August 13, 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.

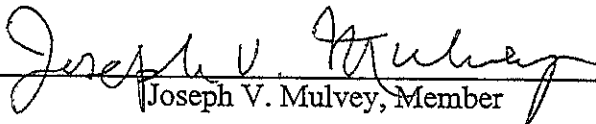
RHODE ISLAND STATE LABOR RELATIONS BOARD



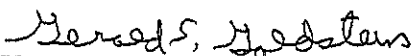
Walter J. Lanni, Chairman



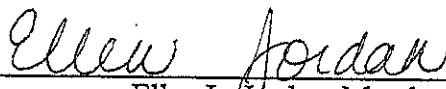
Frank J. Montanaro, Member



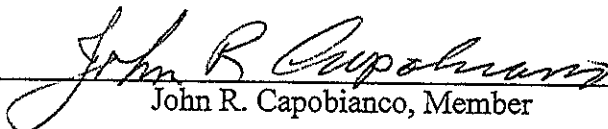
Joseph V. Mulvey, Member



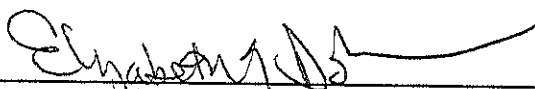
Gerald S. Goldstein, Member



Ellen L. Jordan, Member



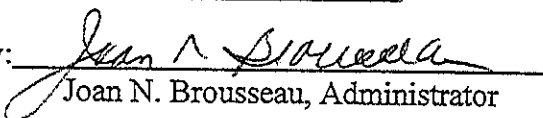
John R. Capobianco, Member



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