



NH Supreme Court affirmed this decision on July 18, 1990, Slip Opinion No. 89-132. 133 N.H. 389 (1990).

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

EMPLOYEES OF THE SULLIVAN COUNTY
NURSING HOME

Petitioners

v.

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 93

Respondent

Case No. A-0513:11

Decision No. 88-33

APPEARANCES

Representing the petitioning employees:

Frederic Reno
Dorothy Nies

Representing Council 93, AFSCME:

James C. Anderson, Staff Representative
Stephanie Mills, AFSCME, List Coordinator
Sandra Dunn, Pres.

Representing Sullivan County:

Alan Hall, Esq.
Richard E. Breed, Asst. Admn.
Donald B. Fontaine, Comm.
Sheila Stone, Comm.
Judith B. Brogren, RN, RSD
Robert Hemenway

PRE-ELECTION CONFERENCE

By order of the Board, Decision No. 88-32, March 24, 1988, the decertification petition filed by employees of the Sullivan County Nursing Home was granted.

A pre-election conference was held in the Conference Room of the Nursing Home in Unity at 10:30 a.m., Friday, March 25, 1988 with representatives from the petitioning employees, Council 93, AFSCME and Sullivan County present.

Counsel for the County furnished all parties with an updated list of employees. The list was reviewed and final eligible list signed as approved.

ISSUES

- I. REHIRES Discussion followed on the status of eight employees identified as "Rehires" instead of "Probationary" under a County policy which states:

"A regular employee who leaves employment in Sullivan County in good standing and returns within three years to the same position shall not be required to serve a probationary period."

The existing agreement by and between the parties, effective January 1, 1987 states:

"All new hired or newly appointed employees prior to the effective date of this agreement must serve a probationary period of 3 continuous months from date of hire.....any employee hired after the effective date of this agreement must serve a probationary period of 6 continuous months from date of hire.....and shall not be entitled to representation by the Union or covered by any of the terms of this agreement....."

<u>Employee</u>	<u>Date of Hire</u>	<u>List submitted 2/11/88</u>
Shari Andrus	February 19, 1988	Not on list
Carla Cummings	March 9, 1988	Not on list
William Heath	January 6, 1988	Listed as "Rehire"
Mari O'Dette	January 27, 1988	Not on list
Michelle Sanborn	January 6, 1988	Listed as "Rehire"
Naomi Woodman	January 27, 1988	Not on list
Carol Bourque	December 28, 1987	Listed as "Probationary"
Barbara Fontaine	January 27, 1988	Not on list

- II. STATUS OF DEBORAH SPRAGUE

Question arose on the status of LPN Deborah Sprague. Work schedules were produced by Resident Service Director, Judith Brogren, to show that Ms. Sprague worked "irregularly" and "on call" and would be on an "on call" basis effective March 27, 1988. All parties agreed that Ms. Sprague would be excluded from the list of eligible voters.

- III. STATUS OF RN'S

Question raised on the eligibility of the RN's and appeal of Board decisions 88-03 and 88-12 which denied the County's request to modify the existing unit and exclude RN's as professional employees.

- IV. OBSERVERS

Counsel for the County asked if the County would be allowed observers at the election. When advised that the matter was between the employees and AFSCME and that management would not be involved in that process, Counsel objected to the denial of management observers.

RULINGS

1. The clear contract language as to the probationary period applies and the eight (8) rehired employees are not eligible to vote. Article IV is specific and states that "those employees are not covered by the terms of the agreement, not entitled to representation by the Union" thereby not a part of the unit until expiration of the six (6) month probationary period.
2. The decertification process is a matter between the employees and their exclusive representative and the employer's involvement in that process should be limited to providing the list of eligible employees and on-site facilities for the election. The County will not be allowed observers.
3. RN's are still part of the certified unit and are eligible to vote in the upcoming decertification election in accordance with PELRB decision # 88-03 dated January 29, 1988.
4. Election will be held on April 15, 1988 in the Recreation Building of the Sullivan County Nursing Home in Unity, N.H. between the hours of 6:00 a.m. and 4:30 p.m.
5. Absentee ballots will be allowed for Mary Waller and Sylvia Haraburda who are hospitalized. Other requests for absentee ballots must be for legitimate reasons and be received, in writing, in the Board's office no later than April 6, 1988.
6. Lists of observers to be submitted by the petitioning party and the Union no later than April 6, 1988.

Evelyn C. LeBrun

 EVELYN C. LeBrun
 Hearing Officer

Signed this 7th day of April, 1988.

BOARD DECISION

The above rulings of Hearing Officer LeBrun are hereby unanimously approved.

Edward J. Haseltine

 EDWARD J. HASELTINE
 Chairman

Chairman Haseltine presiding. Members Richard W. Roulx and Daniel Toomey voting.

Signed this 7th day of April, 1988.