

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

In the matter of :
BOROUGH OF NAUGATUCK : Case No. MPP-1586
- and - : Decision No. 769
LOCAL 1219, INTERNATIONAL ASSOCIATION :
OF FIRE FIGHTERS, AFL-CIO : October 30, 1967

A P P E A R A N C E S:

For the Municipal Employer - William J. Larkin II, Esq.

For the Association - Donald A. House, Esq.

DECISION AND ORDER

Statement of the Case

On June 8, 1967, a complaint was filed with the Connecticut State Board of Labor Relations, hereinafter referred to as the Board by Local 1219, International Association of Fire Fighters, AFL-CIO, hereinafter referred to as the Union, alleging that the Borough of Naugatuck, hereinafter referred to as the Municipal Employer, in respect to the members of its Fire Department has engaged in and is engaging in prohibited practices as set forth and is defined in the Municipal Employee Relations Act, hereinafter referred to as the Act.

On July 19, 1967, the Agent of the Board issued a notice of hearing and served the Union's complaint alleging in substance that the Municipal Employer had engaged in and was engaging in certain prohibited practices in violation of Section 7-470, Sub-section(a)(4) of the Act.

On July 28, 1967, the Board held a hearing on the Complaint at Naugatuck. The Union appeared and was represented by Donald A. House, Esq.; the Municipal Employer appeared and was represented by its attorney, William J. Larkin II, Esq. Full opportunity to be heard, to examine and cross-examine witnesses was afforded all parties. Briefs were submitted by both parties.

THE COMPLAINT

The Complaint alleges the following:

"The Borough of Naugatuck has refused to bargain collectively in good faith with the Union. On January 23, 1967, twelve (12) days after the parties started negotiating the terms of a contract, the Borough, unilaterally adopted a salary plan and has forced this plan on the employees of the bargaining unit. On February 20, 1967, while negotiations were still going on, the Borough unilaterally adopted Personnel Policies covering many matters which were the subject of negotiations, and has unilaterally imposed these policies on the employees of the bargaining unit.

The Borough failed to discuss the specific provisions of said Salary Plan and said Personnel Policies with the Union prior to the date on which said Plan and Policies were adopted.

In taking the above described unilateral action, the Borough ignored the Union's advance warning that such action would make a nullity of the collective bargaining process, and would in the judgement of the Union, constitute a refusal on the part of the Borough to bargain collectively in good faith. In addition, on March 6, 1967, the Borough reneged on a large number of agreements which prior thereto, it had made with the Union."

THE ISSUES

The Complaint in substance narrows the issues to two questions:

- A. Did the Borough of Naugatuck commit prohibited practices, under the provisions of Section 7-470(a)(4), when it adopted a Classification and Salary Plan, Exhibit #5, for all Borough employees on January 23, 1967, and Uniform Personnel Policies on February 20, 1967, Exhibit #6?
- B. Did the Borough of Naugatuck commit a prohibited practice when it changed its position during the course of negotiations with the Union?

The Connecticut State Labor Relations Act was enacted in 1945. It was predicated upon, and its phraseology patterned after, the National Labor Relations Act of 1935. 49 Stat. 449, 29 U.S.C. Sec. 151-166. For this reason, the judicial interpretation frequently accorded the federal act is of great assistance and persuasive force in the interpretation of our own act. The Municipal Employee Relations Act was enacted in 1965, and amended in 1967. The purpose of the Act is to guarantee employees of municipalities the right of self-organization and to bargain collectively through a representative of their own choosing on questions of wages, hours and other conditions of employment. The Board, in administering the Act, is guided by interpretations of the

National Labor Relations Board and by interpretations of the Connecticut Labor Relations Act. The Municipal Employer in the instant matter by unilaterally adopting a classification and pay plan did, in fact, commit a prohibited practice. In National Labor Relations Board vs. Southern Coach and Body Company, C.A., ALA. 1964, 336 F2d 214, 217, the Court said that the granting of unilateral wage increase, in the absence of some extenuating circumstances such as the existence of a bona fide bargaining impasse or the implementation of a new wage program identical to one previously offered to and rejected by the bargaining agent, constitutes a refusal to bargain in good faith within the meaning of the Act because it serves to disparage the union and frustrate its bargaining objectives. In the instant matter there were no extenuating circumstances, no impasse had been reached between the initial bargaining session on January 11, 1967 and the adoption of the pay plan on January 23, 1967. The pay plan adopted by the Municipal Employer had not been previously offered to and rejected by the Union. No bargaining took place between the Union and the Municipal Employer with respect to the pay plan. For the foregoing reasons, the Board concludes that the Municipal Employer did, in fact, commit a prohibited practice by unilaterally adopting the said classification and pay plan.

We do not find that the Municipal Employer adopted the classification and pay plan for the purpose of frustrating collective bargaining, but since its unilateral action inevitably has this tendency, the National Labor Relations Board holds in effect that such conduct, per se, constitutes a violation of the Act and the Supreme Court has upheld this ruling. National Labor Relations Board vs. Katz, 369, U.S. 736 (1962).

Upon the evidence and the entire record in this proceeding the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Borough of Naugatuck is a political subdivision of the State of Connecticut and is governed by the terms of the applicable General Statutes relating to the government of towns within the State. The Mayor is the chief executive officer. The Board of Mayor and Burgesses constitute the legislative body.

2. The Union has been recognized by the Borough of Naugatuck as the exclusive bargaining agent for all full-time paid employees of the Borough Fire Department, but excluding supervisory personnel.

3. The Board of Mayor and Burgesses by unilaterally adopting a classification and salary plan covering the personnel of the Fire Department within the bargaining unit did commit a prohibited practice and refused to bargain in good faith subsequent to said adoption.

CONCLUSIONS OF LAW

1. The Borough of Neugatuck is a municipal employer within the meaning of Section 7-467, Subsection 1, of the Act.

2. Local 1219, International Association of Fire Fighters, AFL-CIO, is an employee organization within the meaning of Section 7-467, subsection 3, of the Act, and is the exclusive representative of all full-time paid employees of the Borough Fire Department, excluding supervisory personnel.

3. On and since March 6, 1967, the Municipal Employer has refused to bargain collectively in good faith with the Union, in violation of Section 7-470, subsection 4, of the Act.

ORDER

Upon the basis of the foregoing Findings of Fact and Conclusions of Law, and pursuant to Section 7-471, subsection (4) (B), it is

ORDERED that the Municipal Employer and its agents shall

1. Cease and desist from refusing to bargain collectively in good faith with Local 1219, International Association of Fire Fighters, AFL-CIO as the exclusive representative of all its full-time paid employees of the Borough Fire Department, excluding supervisory personnel, with respect to wages, hours and other conditions of employment.

2. Take the following action, which the Board finds will effectuate the policies of the Act concerning labor relations:

(a) The Board of Mayor and Burgesses (the town's legislative body) shall immediately rescind the adoption of the Classification and Salary Plan (Ex.5) and Uniform Personnel Policies (Ex.6) as it relates to the Fire Department until such time as the prohibited practices are sufficiently neutralized.

(b) The Municipal Employer shall upon the request of the Union,

but not later than fifteen days from the issuance of this Order, resume collective bargaining in good faith with Union, with respect to wages, hours and other conditions of employment.

3. Immediately post in a conspicuous place where the ^{full-time paid} employees in the Fire Department customarily assemble, and leave posted for a period of thirty consecutive days from the date of posting, a copy of this Order in its entirety, together with a statement attached thereto that:

(a) The Municipal Employer will not engage in the conduct from which it is ordered to cease and desist in Paragraph 1 of this Order; and

(b) The Municipal Employer will bargain in good faith with the Union not later than fifteen days from the issuance of this Decision and Order:

4. Notify the Connecticut State Board of Labor Relations at its office in the Labor Department, 200 Folly Brook Boulevard, Wethersfield, Connecticut, within twenty days of the receipt of this Decision and Order of the steps the Municipal Employer has taken to comply with this Order.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

BY Fleming James, Jr.
Chairman

Dorothy K. III Coffey
Member

Patrick F. Bosa
Member

TO:

Mayor Joseph C. Raytkwick, Jr.
Borough of Naugatuck Certified
Church Street (RRR)
Naugatuck, Connecticut