

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

STAMFORD CAREER FIREFIGHTERS  
ASSOCIATION AND LONG RIDGE FIRE  
COMPANY, INC.

-AND-

OCTOBER 2, 2014

DONALD E. BERG

Case No. MPP-29,682

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

Attorney Robert B. Mitchell  
for the Fire Company

Attorney Rosemarie Barretta  
for the Fire Company

Attorney Morris J. Busca  
for the Union

Attorney Angelo D. Tartaro  
for Donald E. Berg

**RULING ON MOTION FOR ORDER DIRECTING  
COMPLAINANT TO REIMBURSE WITNESS FEES**

On February 22, 2012, Donald E. Berg (Berg or the Complainant) filed a complaint, amended on October 9, 2012, with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the Long Ridge Fire Company, Inc. (the Fire Company) violated the Municipal Employee Relations Act (MERA or the Act) by breaching the applicable collective bargaining agreement and that the Stamford Career Firefighters Association (the Union) had violated the Act by breaching its duty of fair representation.

After the requisite preliminary steps had been taken, the matter came before the Labor Board for a hearing on February 4, 2013, February 13, 2013, April 8, 2013, April 18, 2013, and May 16, 2013. All parties appeared, were represented by counsel and were given full opportunity to present evidence, examine and cross-examine witnesses, and make argument. On August 26, 2014, the Fire Company filed a motion asking the Labor

Board to issue an order requiring the Complainant to pay witness fees to those five (5) persons who the Complainant had subpoenaed to the Labor Board's hearings.

### **FINDINGS OF FACT**

1. On January 10, 2013, the Complainant applied for five (5) subpoenas pursuant to the Board's regulations.<sup>1</sup>

2. On January 16, 2013, the Labor Board's General Counsel sent the Complainant's attorney Labor Board subpoenas commanding the following persons<sup>2</sup> to appear on February 4, 2013 and any adjourned date thereof: Stuart Teitelbaum; Jon Carlo; Peter Rustici; Roman Balzar; and Kevin Re.

3. Each subpoena contained a request for documents, however, only the following requests were directed to witnesses in their capacities as party representatives:

Stuart Teitelbaum "as chairman or chief of the Long Ridge Fire Company . . ."

Peter Rustici "as president of the Stamford Career Firefighters Association . . ."

Roman Balzar "as captain of the Long Ridge Fire Company . . ."

4. During the five (5) hearing dates the following witnesses were present and available to testify:

February 4, 2013- Teitelbaum, Carlo, Rustici, Balzar, Re

February 13, 2013- Teitelbaum, Rustici, Balzar, Re

April 8, 2013- Teitelbaum, Rustici, Balzar, Re

April 18, 2013- Teitelbaum, Rustici

May 16, 2013- Teitelbaum, Rustici

5. The Board conducted five (5) days of hearings in which witnesses testified as follows:

February 4, 2013 – Berg, Carlo

February 13, 2013 – Berg

April 8, 2013 – Berg

April 18, 2013 – Berg, Balzar, Re, Rustici, Teitelbaum

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<sup>1</sup> Section 7-471-53 of the Board's regulations states, in relevant part:

Witnesses summoned before the board . . . shall be paid the same fees and mileage that are paid witnesses in the courts of the state . . . Witness fees and mileage shall be paid by the party at whose instance the witnesses appear . . .

<sup>2</sup> The record reflects that these persons were associated with the Fire Company as follows:

Stuart Teitelbaum - Fire Company chief

Jon Carlo - paid firefighter and Union member

Peter Rustici - paid firefighter and Union member

Roman Balzar - volunteer firefighter who resigned October, 2012

Kevin Re - paid firefighter and Union member

May 16, 2013 – Teitelbaum, Chevalier

6. On November 18, 2012 and January 23, 2014, the Fire Company made written demand on the Complainant for payment of witness fees to the five (5) subpoenaed witnesses.

### **DISCUSSION**

Conn. Gen. Stat. § 31-108 states that “[w]itnesses summoned before the [Labor Board] . . . shall be paid the same fees and mileage allowances that are paid witnesses in the courts . . .” Conn. Gen. Stat. § 52-260(a) provides that “[t]he fees of a witness for attendance before any court . . . shall be fifty cents a day, and for travel to the place of trial shall be the same amount per mile as provided for state employees . . .”

The Fire Company claims that the witnesses are entitled to fees and mileage since each was compelled by subpoena to attend as follows:

Teitelbaum and Rustici - 5 hearings  
Balzar and Re – 3 hearings  
Carlo – 1 hearing

The Complainant responds that the Fire Company does not have standing to demand witness fees for these individuals. The Complainant also states that he was willing to accommodate scheduling requests at all times claims that the delay in making the demand amounts to a waiver. In the alternative, the Complainant argues that any award of fees should be limited to Teitelbaum and Carlo who appeared as Fire Company officials and should only be for the dates each witness testified.

The Fire Company’s motion does not establish a basis for the Fire Company’s standing to seek witness fees for witnesses subpoenaed in their individual capacities (*i.e.*, Carlo and Re). These witnesses have not indicated that they have not been paid or that they wish to be paid or that they have authorized the Fire Company (or its attorney) to seek payment on their behalf. Two of the subpoenas at issue, however, expressly command production of documents *from Fire Company officials*. Since Teitelbaum was commanded to appear in his official capacity on all adjourned dates and did so appear, the Fire Company has standing to demand witness fees and the fees are due and owing. The record reflects, however, that Balzar was not a Fire Company official at the time he was served or during the hearings and as such, the Fire Company lacks standing to demand fees on his behalf.

The Fire Company’s motion is granted only as to Chief Teitelbaum because the movant lacks standing to seek reimbursement of the other witness fees requested. Since the subpoena commanded Teitelbaum to appear on February 4, 2013 and February 13, 2013 “*or at any adjourned date thereof,*” we reject Complainant’s argument that fees are due only for those dates Teitelbaum actually testified and we find that Complainant should pay witness fees for each of his five appearances.

**ORDER**

By virtue of and pursuant to the powers vested in the Connecticut State Board of Labor Relations by the Municipal Employee Relations Act, it is hereby

**ORDERED** that the Fire Company's Motion for an Order Directing Complainant to Reimburse Witness Fees is **GRANTED** only as to Stuart Teitelbaum and the remainder of said motion is **DENIED**. The Complainant shall pay to the Fire Company the statutory witness fees for Teitelbaum's appearances at the hearings on February 4, 2013, February 13, 2013, April 8, 2013, April 18, 2013, and May 16, 2013.

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