

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF  
BOROUGH OF NAUGATUCK  
POLICE COMMISSION AND  
CHIEF DENNIS CLISHAM

-and-

FEBRUARY 14, 2003

OFFICER RICK SMOLICZ

Case No. MPP-22,693

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

Attorney N. Warren Hess, III  
For the Borough

Attorney E. Stephen Briggs  
For the Complainant

**RULING ON RENEWED SUPPLEMENTAL MOTION TO DISMISS**

On January 27, 2003, the Borough of Naugatuck (the Borough) filed a "Renewed Supplemental Motion to Dismiss" the complaint in the above-captioned matter. Previously, on January 3, 2003, the Connecticut State Board of Labor Relations (the Labor Board) had ruled on a Motion to Dismiss filed by the Borough, ordering the following:

1. The Complainant to immediately file an amended complaint in Case No. MPP-22,693 in a form acceptable to the Agent of this Board setting forth in an orderly manner and with sufficient particularity the allegations to be heard by the Board in a formal hearing on this matter.
2. The parties in this matter make themselves available for a pre-trial conference with the Assistant Agent assigned to this matter at a time prior to the next scheduled hearing date of January 27, 2003 for the purposes of:
  - A. Reviewing the amended complaint;

- B. Exchanging documents pertaining to the presentation of evidence in this matter;
- C. Attempting to agree upon stipulated evidence;
- D. Any other matters as designated by the Assistant Agent.

Thereafter, the hearing took place on January 27, 2003. At the hearing, both parties appeared and were represented by Counsel. The parties submitted 46 stipulated exhibits. No testimony was taken at the hearing. Subsequent hearing dates of March 26, April 2 and April 17, 2003 were established. At the conclusion of the January 27, 2003 hearing, the Borough filed this Motion.

### DISCUSSION

In its Supplemental Motion, the Borough argues that the instant complaint should be dismissed because:

1. The Complainant failed to immediately file an amended complaint as ordered by the Labor Board on January 3, 2003;
2. The Complainant arrived one-half hour late for the last pre-trial conference and submitted an amended complaint at that time;
3. In its amended complaint, the Complainant has added or expanded numerous complaints instead of deleting claims as ordered by the Labor Board;
4. The Complainant failed to provide the Respondent with a list of witnesses as required by the pre-trial order;
5. The Complainant produced three volumes of documents all of which require analysis by the Borough;
6. The Complainant continues to paint broad allegations and continues to present information that occurred after the filing of the original complaint in this matter;
7. The Complainant continues to ignore the orders of the Labor Board and has engaged in a continuous pattern of procrastination and chicanery in order to gain an unfair advantage in the hearing;
8. The allegations in the complaint are those of a renegade employee who is asserting numerous unfounded claims against the Borough.

The Borough also asks that, if the Motion is not granted, the Complainant be precluded from:

1. Introducing evidence on any incident that allegedly occurred subsequent to the date of the original complaint in this matter;
2. Challenging the July interview of the Complainant;
3. Calling any witnesses other than the Complainant;

The Borough also asks that the Complainant be required to supply the Borough with a list of witnesses at least 45 days before the next hearing date and that the Borough be allowed a reasonable period of time to examine the proposed exhibits in order to prepare its defense.

The Complainant was allowed time to respond to the Motion and did so on February 4, 2003. In his response, the Complainant claims that the Motion is without legal foundation and asserts the following:

1. Complainant's counsel arrived at the ordered pre-trial conference on time and submitted an amended complaint in accordance with the order of the Labor Board. The Complainant arrived one-half hour late due to traffic.
2. Certain allegations were deleted from the amended complaint;
3. The Complainant provided additional exhibits at the pre-trial conference, enclosed in numbered divided three-ring binders;
4. Both parties and the Assistant Board Agent reviewed all the allegations in the amended complaint and the Complainant responded to certain questions concerning the amended complaint;
5. The parties reviewed and numbered the submitted exhibits with the Assistant Board Agent;
6. The Complainant informed the Borough that certain individuals could be removed from the witness list previously discussed on September 4, 2002;
7. The parties were unable to select another pre-trial conference date because the Assistant Board Agent declined to do so until after the first day of hearing in this matter;
8. The Borough provided the Complainant with documents that the Borough plans to introduce into the record;
9. The Complainant provided all necessary copies of the exhibits for the hearing on January 27, 2003.

**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 parties to the instant complaint exchange lists of potential witnesses no later than February 26, 2003. In all other respects, the Motion is **DENIED**.

**CONNECTICUT STATE BOARD OF LABOR RELATIONS\***

John W. Moore, Jr.  
John W. Moore, Jr.  
Chairman

Patricia V. Low  
Patricia V. Low  
Board Member

\* Alternate Member Grebey was not available to participate in the determination of this Motion.

**CERTIFICATION**


I hereby certify that a copy of the foregoing was sent certified and regular mail to the following on this 14<sup>th</sup> day of February, 2003:

Attorney N. Warren Hess III  
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P.O. Box 47  
Naugatuck, Connecticut 06770

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Attorney E. Stephen Briggs  
2 Hickory Hill Way  
West Granby, Connecticut 06090

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Jaye Bailey Zanta, General Counsel  
CONNECTICUT STATE BOARD OF LABOR RELATIONS