

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF
CARLA A. BOLAND, PRESIDENT
AFSCME, LOCAL 196

-AND-

MARCH 9, 2006

RENEE JACKSON

Case No. SUPP-25,083

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

Renee Jackson
Pro se

Attorney J. William Gagne, Jr.
For the Union

Attorney Giovanna Weller
For the Connecticut Lottery Corporation

RULING ON MOTIONS TO QUASH SUBPOENAS

On December 16, 2004 Renee Jackson, an individual (Complainant or Jackson) filed a complaint with the Connecticut State Board of Labor Relations (the Labor Board) alleging that Carla A. Boland, President, AFSCME, Local 196 (the Union) had violated § 5-572(b) of the State Employees Relations Act (SERA or the Act) by breaching its duty of fair representation.

After the requisite preliminary administrative steps had been taken, the matter was scheduled for a formal hearing before the Labor Board on November 11, 2005. On September 26, 2005, the Complainant applied to the Labor Board for the issuance of subpoenas duces tecum pursuant to Regulations of Connecticut State Agencies § 5-273-53 directed to the Custodian of Records, Local 196 and the Custodian of Records, The

Connecticut Lottery Corporation (the Lottery).¹ The subpoenas were issued to the Complainant who arranged for appropriate service.

On November 9, 2005 the Lottery filed a Motion To Quash items #2 and #4 of the subpoena directed to it. The Lottery complied with the remainder of the subpoena and produced the other requested documents in its possession. On November 9, 2005 the Union also filed an Application to Quash the entire subpoena directed to it.

On November 10, 2005, the Union and the Complainant appeared before the Labor Board. At that time, both parties were allowed to present argument and evidence concerning the subpoenas.² At the hearing, the Complainant withdrew her request for items #12 – 15 of the subpoena directed to the Union. The Union produced documents in response to items #5, #16, #18 and #21 of the subpoena. The Union represented to the Labor Board that no documents exist to satisfy items #1 through #4, #7, #8, #19, #20 and #22. The Union represented that no documents exist to satisfy items #9 and #17 but represented to the Labor Board that it would review its files again to confirm its representation. With regard to items #10 and #11, the Union and the Complainant agreed that the Union would produce any records that satisfy these items that pertain to an individual Marie King, redacting all information related to anyone other than the individual Marie King. The Complainant would have an opportunity to examine the redacted documents and to file an appropriate objection to the manner in which the documents were produced. The Union objects to item #6 of the subpoena on the ground that the information requested is irrelevant.

On November 28, 2005 the Complainant filed two documents opposing the Union's and the Lottery's motions to quash portions of the subpoenas.

By letter dated December 15, 2005 to the Union and the Complainant, the Labor Board summarized the outstanding subpoena issues and offered each party the opportunity to bring any other issues to the attention of the Labor Board. Additionally, the Labor Board requested an update from the Union regarding those items it had agreed to confirm and/or produce.

By letter dated January 24, 2006 the Complainant informed the Labor Board that she believes the document produced by the Union in response to item #5 of the subpoena is not a complete document and requested that the complete document be produced. By letter dated January 25, 2006 the Labor Board requested the Union's position regarding the disputed document and also again requested the Union to update the Labor Board

¹ The Connecticut Lottery Corporation is the Complainant's former employer. The Complainant also requested a subpoena duces tecum directed to the Custodian of Records, AFSCME, Council 4 which subpoena was apparently never served and is not part of these proceedings.

² A representative of the Lottery did not appear for the hearing due to an unavoidable scheduling conflict but the Lottery produced the undisputed documents to the Labor Board on that date. The Lottery's Motion to Quash was entered into the record. The Complainant was informed that the Lottery would not appear on November 10, 2005 and was given opportunity to address the Lottery's Motion to Quash. All parties were informed that the Lottery's Motion to Quash would be considered in this proceeding.

concerning the other outstanding issues. To date, no response has been received from the Union.

THE SUBPOENAS DUCES TECUM

The items contained in the subpoena duces tecum directed to and served upon the Union that remain disputed or at issue in some way are:

5. A copy of the 2003 advice letter from Paula Ciara, AFSCME International to the local.
6. A copy of the Executive Board minutes approving the Janet Wilson arbitration.
9. Copies of any correspondence received from AFSCME International (addressed either to the Local or to Rae Rudzinski) prior to July 10, 2003 directing the Local to produce information for Renee Jackson's review relative to the July Judicial Panel hearing.
10. Copies of the Local's financials for the period June 2003 to December 2003, 2003.
11. Copies of the Local's financials for the period January 2004 to June 2004.
17. Copies of any correspondence or e-mails received by the Local regarding the separation of R. Jackson.

The items contained in the subpoena duces tecum directed to and served upon the Lottery that remain disputed are:

2. A copy of any correspondence sent to the Union in August 2003 regarding Renee Jackson.
4. Amy Kubachka's performance appraisals for the time period of August 2002 through 2004.

POSITIONS OF THE PARTIES

The Union Subpoena

Concerning items #9 and #17, the Union has agreed to check its files again for any documents that satisfy these requests. As such, we will order the Union to take such action and report back to this Board by a date certain. Concerning items #10 and #11, the Union has agreed to produce any documents that satisfy that request that contain information concerning an individual, Marie King. All other information in such documents will be redacted and the Complainant will have the opportunity to review said

documents and make any appropriate objections. As such, the Union will be ordered to produce those documents in the agreed-upon form by a date certain.

Concerning item #5 of the subpoena, the Complainant believes, after review of the document that it is not complete. The Union will be ordered to review its records to confirm that the document produced at the hearing before the Labor Board in response to this request is a complete document and will either report back to the Labor Board regarding the results of its search or produce the complete document by a date certain.

Concerning item #6, the Union objects to production on the ground of relevancy. The Union claims that the document requested is not relevant to the inquiry of the Labor Board based on the Complainant's allegations that the Union violated its duty of fair representation. We find the subpoena request to be too vague and as described, irrelevant to these proceedings. The request does not contain a date for the information nor do we have any basis at this time to find that this information is related to the Complainant's allegations. The Complainant may inquire of witnesses at the hearing regarding the grievance of this individual if she believes this information is relevant and thereafter, this Board may better assess the relevancy or necessity of any renewed request. However, at this time the Motion to Quash regarding this item is granted.

The Lottery Subpoena

The Lottery objects to the production of correspondence sent to the Union regarding the Complaint during August 2003 on the ground that the documents may be too numerous and scattered to produce. We disagree. The documents are related to the employment of the Complainant and the Union's dealings with the Lottery concerning her employment. The request is limited to a one-month period. We cannot find that this request is too burdensome and as such, we will order production of these documents.

The Lottery also objects to the production of the performance appraisals of another Lottery employee on the grounds that the information contained in those documents is privileged and/or confidential and/or protected by federal and state law.

Aside from any issues of privilege or confidentiality, we find that production of this document is not necessary to the Labor Board's inquiry in this case. In this case, the Labor Board will be examining the circumstances of the Union's representation of the Complainant. Information regarding the Union's representation of other similarly situated individuals may become important to the case but such information is best elicited first through the testimony of witnesses and the introduction of evidence related to this Complainant in order to lay an appropriate foundation for any further evidence. Considering the potential privilege and confidentiality issues involved with ordering the production of another employee's records, we grant the Motion to Quash regarding this item.

ORDER

By virtue of and pursuant to the powers vested in the Connecticut State Board of Labor Relations by the State Employees Relations Act, it is hereby **ORDERED**:

- I. The Motion to Quash filed by the Union regarding item #6 is **GRANTED** and **DENIED** in all other respects;
- II. The Union shall immediately review its files regarding item #5 of the subpoena and shall report back to the Labor Board no later than 30 days from the date of this decision regarding its findings. If the Union locates a more complete document satisfying item #5 than that produced at the hearing, it shall produce said document to the offices of the Labor Board no later than 30 days from the date of this decision;
- III. The Union shall immediately review its files for any documents that satisfy items # 9 and #17 of the subpoena and shall report back to this Board no later than 30 days from the date of this decision regarding its findings or shall produce to the offices of the Labor Board any documents that satisfy said items no later than 30 days from the date of this decision;
- IV. The Union shall produce to the offices of the Labor Board, no later than 30 days from the date of this decision documents satisfying items # 10 and #11 in the form as described at the hearing and in this decision;
- V. The Lottery shall produce to the offices of the Labor Board no later than 30 days from the date of this decision any documents satisfying item # 2 of the subpoena directed to the Lottery;
- VI. The Motion to Quash filed by the Lottery regarding item #4 of that subpoena is **GRANTED**.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

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

Patricia V. Low
Patricia V. Low
Board Member

Wendella A. Battey
Wendella A. Battey
Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 9th day of March, 2006 to the following:

Renee Jackson
192 Country Lane
East Hartford, CT 06118

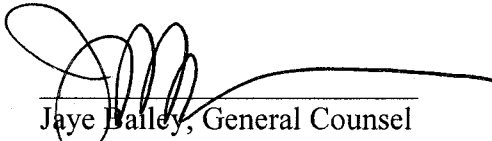
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