

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

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

OCTOBER 3, 2006

-AND-

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 Tiberii Weller
For the Connecticut Lottery Corporation

RULING ON MOTION TO QUASH SUBPOENA

AND

PROCEDURAL ORDER

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 § 5-272(b) of the State Employee Relations Act (SERA or the Act) by breaching its duty of fair representation.

After the requisite preliminary steps had been taken, the matter was scheduled for a formal hearing before the Labor Board on November 10, 2005. Prior to that hearing date, the Labor Board issued and the Complainant caused to be served subpoenas

requesting certain documents from the Union and Complainant's former employer, the Connecticut Lottery Corporation (Lottery). The Union and Lottery filed Motions to Quash the subpoenas, although the Union produced certain documents at the hearing. The Labor Board issued its ruling on the Motions on March 9, 2006. Lottery produced documents to the Labor Board in response to the subpoena on April 10, 2006. The Union produced documents in response to the subpoena on June 27, 2006.

On April 14, 2006 and May 31, 2006 Complainant objected to Lottery's response to the subpoena, arguing that Lottery possesses materials that have not been produced. Lottery filed a response to Complainant's objection stating that it has fully complied with the subpoena. (Ex. 24).

Prior to August 30, 2006 Complainant requested and caused to be served, a further subpoena directed to Lottery seeking additional documents. (Ex. 22). On August 28, 2006 Lottery filed a Motion to Quash the entire subpoena. (Ex. 25) A hearing on the outstanding subpoena issues was held on August 30, 2006. Both parties appeared and Counsel for Lottery appeared to defend Lottery's position concerning the subpoena issues. All were allowed to address the subpoena issues. During the hearing, Complainant withdrew her request for subpoena items #8, 14 – 22, 27 – 33, 36, 38, 39, 42 – 45. On September 11, 2006 Complainant filed an Opposition to the Motion to Quash and a Motion for Reconsideration renewing her request for items 36, 38, 39 and 42 – 45. On September 21, 2006 Lottery filed an Objection to the Motion for Reconsideration. On September 24, 2006 Complainant filed an Objection to Lottery's September 21st filing.

In sum, at this time Complainant maintains that Lottery has not fully complied with the previous subpoena and further, seeks compliance with items #1-7, 9-13, 23-26, 34-39, 42-46 of her July 20, 2006 subpoena. Lottery maintains that it has fully complied with the previous subpoena and asserts its Motion to Quash all the items in the July 20, 2006 subpoena as irrelevant, overly broad, unduly burdensome or privileged and confidential.

DISCUSSION

We first address the remaining issue from the earlier subpoena served on Lottery. Complainant claims that Lottery has not fully complied with item #2 of that subpoena which required the production of "any correspondence sent to the Union in August 2003 regarding Renee Jackson". Complainant points to other pieces of correspondence that she knows to exist, but which were not produced by Lottery, as proof that Lottery is intentionally concealing documents. Lottery admits that the other documents revealed by Complainant do exist but points out that those documents do not fall within the subpoena request and therefore, are not proof of any failure to comply with the subpoena. In correspondence and through counsel on the record, Lottery maintains that it has done a thorough search of its files, electronic and other, and has disclosed all documents that fall within the parameters of the subpoena.

There is simply no evidence that Lottery has failed to comply with this subpoena. The documents referred to by Complainant do not fall within the parameters of this Board's order regarding the first subpoena and there is certainly no other evidence to support Complainant's very serious charge that Lottery has intentionally concealed documents in this matter. Complainant's request for an order to Lottery concerning the first subpoena is denied and we find that Lottery has fully complied with the Labor Board's order in that matter.

Turning to the current subpoena, we make the following ruling concerning certain items in that subpoena.

Items #2 – 5 – These items seek e-mail correspondence between Lottery employees on April 22, 2003 regarding Complainant. Items #2-5 are not relevant to the Labor Board's inquiry in this case; that is whether the Union breached its duty of fair representation to Complainant. Copies of e-mail exchanges between Lottery employees or between Lottery employees and management will not assist in our determination of the allegations against the Union in this matter.

Items #9, 10, 12 and 13 – These items seek Lottery documents, internal notes and correspondence to Lottery employees concerning the results of an internal investigation into a mail handling issue in fall 2003. Items #9, 10, 12 and 13 are not relevant to the Labor Board's inquiry in this case against the Union. Lottery's correspondence to its employees and/or its own notes and findings regarding its investigation will not assist in our determination of the allegations against the Union in this matter.

Item #24 – This item seeks correspondence from Lottery to employee Amy Kubachka regarding requests for information from Kubachka's personnel file. Item #24 is not relevant to our inquiry in this case against the Union. Lottery's correspondence to its employee regarding an information request will not assist in our determination of the allegations against the Union in this matter.

Item #36 – This item seeks documents received by Lottery from the Office of Labor Relations regarding Complainant between July 2003 and August 2003. Item #36 is not relevant to our inquiry in this case against the Union. Correspondence between Lottery and the Office of Labor Relations will not assist in our determination of the allegations against the Union in this matter.

Item #39 – This item seeks documents sent from the Union President Boland and/or the Union between October 15, 2003 and January 2004 regarding the pre-disciplinary hearing concerning Complainant. Item # 39 is more appropriately requested of the Union and is overly burdensome to Lottery.

Items #42-45 – These items seek employment documents for employee Sunildat Yamraj. Complainant claims that this employee was treated unfairly by another Council 4 local union. Items #42-45 are not relevant to our inquiry in this case against the Union.

Lottery's Motion to Quash the above-described items is granted. We reserve ruling on the remaining items in the subpoena until after we have had the opportunity to hear Complainant's initial evidence in this matter. In this regard, it is necessary for us to hear initial testimony and to receive the documentary evidence already in Complainant's possession in order for this Board to determine the necessity and relevance of the remaining subpoenaed items. Our thorough review of the record thus far, including Complainant's allegations as set forth in her lengthy complaint indicate that we must hear Complainant's testimony in order to determine whether further documentary evidence is required that Complainant does not already possess. Our order will reflect our ruling on this subpoena as well as our intention to begin taking evidence in this matter during the hearing scheduled for October 11, 2006. Complainant and the Union should be prepared to go forward on that date. Lottery is not required to produce any documents on or before October 11, 2006 or until further ruling from this Board.

ORDER

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

- I. Complainant's Objection to Lottery's production of documents in response to the subpoena dated October 4, 2005 is **DISMISSED**;
- II. The Motion to Quash filed by Lottery on August 29, 2006 concerning the subpoena dated July 20, 2006 is **GRANTED** as to items #2, 3, 4, 5, 9, 10, 12, 13, 24, 36, 39, 42, 43, 44, 45.
- III. Complainant and the Union shall appear for the hearing scheduled on October 11, 2006 prepared to present testimony and evidence concerning this complaint;
- IV. The Labor Board shall reserve ruling on items #1, 6, 7, 11, 23, 25, 26, 34, 35, 37, 38 and 46 of the subpoena dated July 20, 2006.

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 3rd day of October, 2006 to the following:

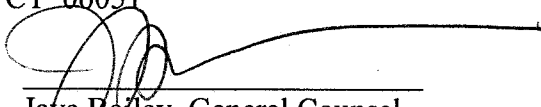
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