On May 17, 1988, Local 1219, I.A.F.F. (the Fire Union) filed a complaint with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the Borough of Naugatuck (the Borough) had engaged in practices prohibited by the Municipal Employee Relations Act (the Act). The complaint (MPP-11,350) alleged that the Borough had removed a benefit which the Fire Union had held for 23 years, namely, the right to covered parking under the Town Hall parking lot. On May 24, 1988, I.B.P.O. Local 325 (the Police Union) filed a complaint with the Board alleging substantially the same grounds (MPP-11,364). On September 20, 1988, the Fire Union filed a complaint (MPP-11,624) alleging that the Borough was engaged in practices prohibited by the Act in that it was refusing to comply with a grievance settlement.

After the requisite preliminary administrative steps had been taken, the three cases were consolidated, and the parties appeared before the
Labor Board for hearings on August 29, 1989, December 5, 1989, and February 5, 1990, at which the parties appeared and were represented by counsel. Full opportunity was provided to present evidence, examine and cross-examine witnesses and make argument. The parties filed post-hearing briefs, the last of which was received on May 21, 1990.

On the basis of the entire record before us, we make the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. The Borough is an employer within the meaning of the Act.

2. The Fire Union is an employee organization within the meaning of the Act and represents the firefighters employed by the Borough.

3. The Police Union is an employee organization within the meaning of the Act and represents sworn police officers within the Borough.

4. The police station for the Borough is located on the lower floor of the Borough Hall building.

5. The main fire station for the Borough is located across the street from the Borough Hall building.

6. Outside the police station is a covered parking lot containing approximately twenty-six to thirty spaces. Two thirds of these spaces are arranged so that a back space is only accessible if the space in front of it is vacant.

7. The Borough Hall building is under the control and management of the Borough Welfare Board.

8. In 1965, the Chairman of the Board of Fire Commissioners wrote to the Welfare Board requesting six spaces in the "new Town Hall parking area" for the use of firefighters. The spaces were assigned to firefighters.

9. In 1985, Mayor Buckmiller asked the firefighters to relinquish their parking places during the Borough Hall work day, 8:00 A.M. to 4:30 P.M., for the use of Borough Hall employees. In return, the Mayor made available a small parking area nearby. From that time, the firefighters used the parking spaces under the Borough Hall only after 5:00 P.M.

10. Parking spaces in the covered lot were also assigned to Borough Hall employees.

11. Police officers have never been assigned parking spaces in the Borough Hall lot for their personal cars. However, for many years, police officers have parked their personal cars in any vacant spots in the lot.

12. Sometime in 1988, the Police Department was evaluated by an outside consultant. Among other suggestions, the consultant recommended greatly reducing congestion in the parking area since the crowded conditions...
resulted in police cars being backed out into a busy street. In addition, police officers were sometimes called in from patrol to move their cars because they were blocking other cars.

13. As a result of these recommendations, the Chief of Police went to the Welfare Board and requested some improvements in the parking area. The Welfare Board responded that they would try to get some alternative parking for Borough Hall employees.

14. The Welfare Board arranged with a private employer, General Data Comm (GDC), to lease part of their parking lot, which was across the street from the Borough Hall and across a side street from the firehouse. The Welfare Board had a pedestrian gate put into the fence near the Borough Hall and firehouse, and railroad ties were placed to indicate the part of the lot available to Borough employees. The lot is fenced and lighted.

15. After the parking at the GDC lot was arranged, the Welfare Board sent out a memo dated May 17, 1988, which stated that all town hall, police and fire department employees would no longer be allowed to park in the Borough Hall lots, but should park in the GDC lot. The memo indicated that questions and complaints could be brought to the next meeting of the Welfare Board.

16. Neither of the Unions here represented appeared before the next meeting of the Welfare Board, and that Board reaffirmed its decision.

17. On or about July 21, 1988, the Fire Union filed a second step grievance with the Naugatuck Fire Commission over the loss of assigned parking spaces at the Borough Hall.

18. The Fire Commission voted "to support" the grievance of Local 1219 and sent a letter to that effect to the Welfare Board, which decided to let its original decision stand.

CONCLUSIONS OF LAW

1. A municipal employer has a duty to bargain concerning substantial changes in major terms or conditions of employment made during the term of an existing collective bargaining agreement.

2. The change of parking spaces assigned to the Fire Union and Police Union employees was a de minimus change which does not impinge with sufficient depth on working conditions of the bargaining unit to require negotiations.

3. Under the facts presented here, no grievance settlement was reached with the Fire Union; therefore, there was no violation of the Act for failure to comply with a grievance settlement.
DISCUSSION

These three complaints each arose from a common nucleus of operative fact, i.e. the change in parking arrangements for employees of the Borough of Naugatuck. The complaints in Case Nos. 11,350 and 11,364 allege a unilateral change in a major term or condition of employment which requires bargaining under the Act. Case No. 11,624 alleges that there was a grievance settlement entered into by the employer which has not been implemented, in violation of the Act.

CASE NOS. 11,350 and 11,364

Under the Act, a municipal employer has the duty to bargain concerning substantial changes in major terms and conditions of employment made during the term of an existing collective bargaining agreement. Town of Newington, Decision No. 1116 (1973). Such a change in a major term or condition of employment without first negotiating the change with the employees' bargaining representative may constitute a refusal to bargain and a practice prohibited by Section 7-470(a)(4) of the Act. However, not all unilateral changes made by an employer constitute a refusal to bargain, such as when the change does not amount to a substantial change in a major term or condition, Borough of Naugatuck, Decision No. 2762 (1989); State of Connecticut, Decision No. 2663 (1988); City of Stamford, Decision No. 2677 (1988); or when the change solely concerns a matter fundamental to the operation of the public agency and falls within the realm of sole managerial discretion, Town of Guilford, Decision No. 1829 (1979); or where the collective bargaining agreement gives express or implied consent to the type of unilateral action involved. Town of Newington, supra.

The Borough concedes that there has been a change in parking location provided for these employees and that the change was made without bargaining. However, the Borough claims that the change is not a substantial one affecting a major condition of employment. In fact, the Borough argues that the change is de minimus and therefore, not a violation of the Act. We agree.

Every employment condition is not set in stone for the duration of the contract. In City of New London, Decision No. 1322 (1975), quoted in Borough of Naugatuck, supra, which involved this employer and the Fire Union, we pointed out that:

a "collective bargaining agreement should 'be deemed, unless a contrary intention is manifest, to carry forward for its term the major terms and conditions, not covered by the agreement, which prevailed when the agreement was executed." (citing Town of Newington Board of Education, Decision No. 1116 (1973), emphasis supplied.) Certainly not every change in work assignment must be bargained before it is put into effect or the employer's hands would be tied by intolerable rigidity.
This concept is equally applicable to working conditions as it is to work assignments. In this case, the employer has shown valid business reasons for the change in parking place. As we have consistently held, the scope of mandatory bargaining does not eliminate all unilateral action by employers. Town of East Haven (Police), Decision No. 1279 (1975). That case recognized that an area of overlap exists "between what have traditionally been thought managerial functions and what concerns conditions of employment for the employees." In striking that balance in the present case, we find that the Borough acted within its managerial discretion.

The Fire Union, which did not file a brief, argued essentially that its members had been given the parking places under the Borough Hall and they could not be removed. There was no serious argument made that the parking places in the Northwest (GDC) lot were any less advantageous than those previously assigned. The GDC lot provides more parking, it does not require parking two deep, or create hazardous circumstances, and it is located across a side street from the firehouse rather than across a main street. The Fire Union mentioned that they could see their cars more easily from the firehouse when they were under Borough Hall, but they introduced no evidence that conditions required constant surveillance of parked cars. There was testimony that some firefighters would have to drive around an extra block to park, but it admitted that firefighters coming from another direction could get to the new lot more easily. Finally, there was testimony that more snow could accumulate on cars, if it snowed during their shift, in the uncovered GDC lot than in the covered, but open-sided, Borough Hall lot. This difference in snow removal on occasion does not amount to a substantial change in a major term or condition of employment and does not require bargaining.

The Police Union advanced several additional arguments to show the impact on their working conditions of the change in parking. The Police officers were never assigned spaces in the covered parking lot, however, they seem to have parked there with official sanction for some time. In fact, this sanction even extended to allowing officers to be called in from patrol to move their cars if they had blocked someone in.

The major impact the police cite is a significant decrease in security for their private vehicles. The Police Union argues that police officers' cars are a frequent and vulnerable target for disgruntled persons. When the cars were parked right outside the station, they could be kept under surveillance and vandalism could be prevented.

However, the facts shown at the hearing do not support the Police Union's argument. There was uncontroverted testimony that cars were repeatedly vandalized while in the covered parking lot. Although the Union dismisses this problem as an "inside job", it is still evidence that the location of the parking did not make officers' cars safe. As the Borough points out, the location of cars right outside the police station, rather than in a lot with other Borough employees, makes it easier for disgruntled persons to identify police officers' vehicles.

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The Union presented testimony concerning damage to officers' vehicles which it alleged was attributable to parking in the GDC lot. Two officers testified that they had noticed damage to their cars at some time after they had parked in the GDC lot. Neither had noticed the damage in the lot and could not be sure it had happened there. One officer's car was stolen, not from the lot, but from the street. He had left the car running, with the keys in the ignition, at a time when the Police Department released a prisoner. The Police Union argues that police officers are entitled to security such that they can leave their cars running while they go into the station. We decline to so rule.

The parking lot which the Borough has provided for these employees is across the street from the police station. It is surrounded by a fence and lighted. Police officers and others are passing by the lot at all hours. The characterization attempted by the Police Union of this lot as "extremely insecure" is absurd. The only vandalism which was clearly shown to have occurred in the parking lot occurred in the covered lot immediately outside the police station.

The Act does not protect employees from any change in their working lives, no matter how small; In this case, the employer was faced with a problem, the unsafe use of the covered parking lot, which resulted in police vehicles being backed out into a busy street. The employer did not remove the parking benefit from the employees until it had found an acceptable substitute, the GDC lot. The employees did not lose a privilege they had enjoyed, they were merely given parking places in a nearby place. We do not find that such a minor change required bargaining.

CASE NO. MPP-11,624

The Fire Union filed an additional complaint concerning the change in parking. On July 21, 1988, the Union filed a grievance at the second step with the Fire Commission. The Fire Commission took the following action:

VOTED: Unanimously on motion by M. Tafuto and seconded to support the union in regards to their grievance pertaining to the lost [sic] of parking spaces because of hardships incurred.

The Chairman of the Fire Commissioners sent a letter to the Chairman of the Welfare Board advising him of the action of the Fire Commission. The Welfare Board considered the letter at its meeting of September 20, 1988. The Acting Fire Chief spoke in favor of the Union's position. Although the Welfare Hoard evidently asked for a legal opinion, it did not change its original decision concerning parking.

The Union argued that the action of the Fire Commission was a decision to uphold the grievance in accordance with the contract between the parties. Thereafter, the Borough, in the form of the Welfare Hoard, refused to comply with the resolution of the grievance, in violation of the Act.
Failure to comply with a grievance resolution is a violation of the Act. However, the Fire Commission did not resolve this grievance. The allocation of parking spaces at the Borough Hall is under the control of the Welfare Board. The Fire Commission voted to support the Union's grievance and forward it to the Welfare Board. This was not a resolution of the grievance but merely support. The Welfare Board did not change its position and no further action was taken with respect to the grievance. Therefore, there was no resolution, no failure to comply with a resolution, and no violation of the Act.

ORDER

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

ORDERED, that the complaints in Case Nos. MPP-11,350, 11,624, and 11,364, be and the same hereby are dismissed.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

By s/Patricia V. Low

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Patricia V. Low, Chairman

s/Susan R. Meredith

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Susan R. Meredith

(Craig Shea, although on the panel for this complaint, was not available for deliberations.)

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