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BEFORE THE BOARD OF PERSONNEL APPEALS

MISSOULA ELEMENTARY UNIT)
OF THE MONTANA EDUCATION)
ASSOCIATION,)
)
Complainant,)
)
-vs-)
)
BOARD OF TRUSTEES OF SCHOOL)
DISTRICT NO. 1, MISSOULA,)
MONTANA,)
)
Defendant.)

ULP-12-1975

FINDINGS OF FACT,
CONCLUSION OF LAW,
AND ORDER AS
RECOMMENDED TO THE
BOARD OF PERSONNEL
APPEALS

I Introduction

The Missoula Elementary Unit of the Montana Education Association (hereinafter referred to as MEA) filed an unfair labor practice charge with the Board of Personnel Appeals alleging that the Board of Trustees of School District No. 1, Missoula, Montana (hereinafter referred to as Trustees) had violated section 59-1605(1)(e), R.C.M. 1947. The Trustees have responded to MEA's allegation and deny having committed an unfair labor practice. A hearing on MEA's charge was held in Missoula, Montana on September 30, 1975 before me. Emilie Loring, of the law firm of Hilley and Loring, Great Falls, Montana represented MEA. Candance C. Fetcher and Dennis E. Lind, deputy county attorneys for Missoula County, represented the Trustees. Both parties filed briefs after the hearing.

II Findings of Fact

1. MEA alleges that the Trustees failed to bargain in good faith by unilaterally changing the working conditions of employees whom MEA represents. Specifically, MEA charges that the Trustees adopted a school calendar which contained one day more than the calendar for the school year 1974-75 (as set out in a collective bargaining agreement between the

1 Trustees and MEA) although no change in the school calendar
2 was proposed by either the MEA or the Trustees during contract
3 negotiations.

4 Relevant evidence shows that this calendar was adopted by
5 the Trustees on March 11, 1975 and announced to staff through
6 Administrative Council Meeting minutes on March 12, 1975.

7 2. I note that section 59-1605(1)(e) is a section of an
8 act popularly known as the Montana Public Employee's Collective
9 Bargaining Act. This Act was not applicable to teacher ne-
10 gotiations at the time the alleged offense occurred in March
11 of 1975. Rather, the Professional Negotiations Act for Teachers
12 (Title 75, Chapter 61, R.C.M. 1947) was applicable.¹

13

14 III Conclusion of Law

15 The Board of Personnel Appeals lacks the necessary juris-
16 diction to adjudicate MEA's unfair labor practice charge be-
17 cause the conduct alleged by MEA to constitute an unfair labor
18 practice occurred before the Montana Public Employee's Collective
19 Bargaining Act applied to teachers.

20

21 IV Recommended Order

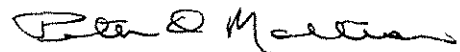
22 Accordingly, MEA's unfair labor practice charge is hereby
23 dismissed.

24 Dated this 2nd day of January, 1976.

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27



Peter O. Maltese
Hearing Examiner

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29 ¹I note that the Professional Negotiations Act for Teachers
30 enumerated certain employer unfair practices and provided for pro-
cedures to restrain those practices in district court. This Act
31 was repealed effective July 1, 1975 at which time the Montana Public
Employee's Collective Bargaining Act with its enumerated unfair
labor practices and procedures was made applicable to teachers.

32

CERTIFICATE OF MAILING

I hereby certify that I mailed a true copy of the above Findings of Fact, Conclusions of Law, and Order as Recommended to the Board of Personnel Appeals to the following persons:

Candance C. Fetcher
Deputy County Attorney
Missoula County Court House
Missoula, Montana 59801

Emilie Loring
HILLEY & LORING
1713 Tenth Avenue South
Great Falls, Montana 59405

Dated this 2nd day of January, 1976.


Peter O. Maltese

1 BEFORE THE BOARD OF PERSONNEL APPEALS

2 MISSOULA ELEMENTARY UNIT OF THE)
3 MONTANA EDUCATION ASSOCIATION,)

4 Complainant,)

5 -vs-)

ORDER


6 BOARD OF TRUSTEES OF SCHOOL)
7 DISTRICT NO. 1, MISSOULA)
8 COUNTY, MONTANA.)

9 Defendant.)

10 The Board of Personnel Appeals, having considered oral argument on the
11 Complainant's exceptions to the hearing examiner's proposed findings of fact,
12 conclusions of law and recommended order at our meeting on February 10, 1976;
13 and at our meeting on March 22, 1976; and good cause appearing therefor:

14 IT IS ORDERED that the exceptions to the hearing examiner's proposed
15 findings of fact, conclusions of law and recommended order be, and the same
16 is hereby denied.

17 DATED this 29TH day of March, 1976.

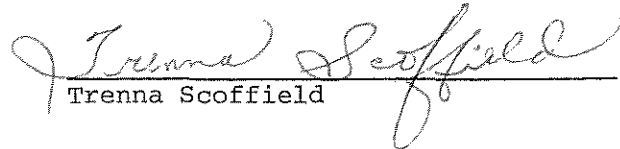
18 
19 Brent Cromley, Acting Chairman
20 Board of Personnel Appeals
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CERTIFICATE OF MAILING

I, Trenna Scoffield, hereby certify that I did, on the 30th
day of March, 1976, mail a true and correct copy of the Board of Personnel Appeals
Order to the following:

Hiley & Loring
1713 Tenth Ave. So.
Great Falls, Montana 59405

Candace C. Fetscher
Deputy County Attorney
Missoula County Courthouse
Missoula, Montana 59801


Trenna Scoffield