

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

DOUGLAS COUNTY PROFESSIONAL
EDUCATION ASSOCIATION,

Petitioner,

vs.

DOUGLAS COUNTY SCHOOL DISTRICT
and the BOARD OF TRUSTEES OF THE
DOUGLAS COUNTY SCHOOL DISTRICT,

Respondents.

No. A1-045281

DECISION

On January 7, 1975, the Douglas County Professional Education Association filed this petition requesting that the Board issue a declaratory ruling that the respondents are guilty of an unfair labor practice and seeking an order of the Board compelling the respondents to negotiate with the petitioner on monetary matters.

Upon petitioner's request that the hearing on the petition be expedited, the matter was set for hearing and heard on February 10, 1975.

The complaint arose because the respondents refused to formally negotiate on monetary matters with the petitioner asserting that the petitioner failed to comply with the notification requirements of NRS 288.180(1).¹

1. NRS 288.180 provides in its entirety:

1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of such desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give such notice on or before December 1.

2. This section does not preclude, but this chapter does not require, informal discussion between an employee organization and a local government employer of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

The testimony of Miss Linda Larson disclosed that she, as the petitioner's President, prepared the notifications required by NRS 288.160² on November 26, 1974, for mailing to Dr. Keith Cornforth, President of the Douglas County Board of School Trustees, and prepared a copy of the documentation for Mr. Gene Scarselli, Superintendent of the Douglas County Schools. She also compiled a third packet for mailing to this Board in compliance with our General Rule 6.02.

She further testified that after conferring with other members of the petitioner employee organization she prepared, on November 27, 1974, the notification of intent to negotiate on monetary matters listing all matters the Association wished to negotiate. Miss Larson indicated that she prepared an original and two copies of the NRS 288.180 notification and, on November 29, 1974, placed the original in the letter to Dr. Cornforth and a copy in the letter addressed to Mr. Scarselli. All three letters were mailed on November 29, 1974, by certified mail.

The affidavit of Dr. Cornforth, who was absent from the State at the time of the hearing, was presented; it set forth his receipt of the cover letter referring to NRS 288.160 and the necessary documentation required by that statute. However, he stated that no notification under NRS 288.180 was submitted with the letter. Mr. Scarselli testified that he likewise received all the documents save the notification required by NRS 288.180. This Board's Executive Secretary, Miss Sally Davis, testified that the packet received at our offices did not contain any document other than those required by NRS 288.160 and Board General Rule 6.02.

2. NRS 288.160(1) provides in part:

1. An employee organization may apply to a local government employer for recognition by presenting:
 - (a) A copy of its constitution and bylaws, if any;
 - (b) A roster of its officers, if any, and representatives; and
 - (c) A pledge in writing not to strike against the local local government employer under any circumstances.

...

Since the testimony in this matter is in conflict, we have chosen to rely on the documentary evidence received at the hearing. Giving greater weight to written evidence is especially appropriate in this instance where the oral testimony on behalf of both petitioner and respondents was that of interested parties. See, for example, Nastasi v. Moore, 156 N.Y.S.2d 521 (S.C. N.Y. 1956); Grattan v. Societa Per Azioni Cotonificio Cantoni, 151 N.Y.S.2d 875 (S.C. N.Y. 1956).

We note that the cover letter addressed to Dr. Cornforth makes no reference to, nor mention of, any attached document which complies with the requirements of NRS 288.180. The letter clearly sets forth that it is sent in compliance with NRS 288.160 and delineates the documentation enclosed—all of which are in conformity with NRS 288.160. Every document set forth in the cover letter was received by Dr. Cornforth and Mr. Scarselli.

We need not consider, and we do not decide, what form the NRS 288.180 notification need take or what constitutes "notice on or before December 1." We merely conclude that, upon the documentary evidence presented, it does not appear that the notification was submitted with the letter of November 26, 1974, or by any other means on or before December 1.

In the absence of such notification, the respondents need not formally negotiate with the petitioner on any subject which requires the budgeting of moneys.

FINDINGS OF FACT

1. That the petitioner, Douglas County Professional Education Association, is a local government employee organization recognized by the respondents as the exclusive negotiating representative for the certified teaching personnel at the Douglas County School District.

2. That the respondent, Douglas County School District, is a local government employer.

3. That the evidence discloses that Miss Linda Larson, President of the petitioner local government employee organization, prepared, on November 26, 1974, the notifications required by NRS 288.160 for mailing to Dr. Keith Cornforth, President of the Douglas County Board of School Trustees, and prepared a copy of the documentation for mailing to Mr. Gene Scarselli, Superintendent of the Douglas County School District.

4. That the documentary evidence discloses that the notification required under NRS 288.160 was mailed by Miss Larson on November 29, 1974, and subsequently received by both Dr. Cornforth and Mr. Scarselli.

5. That the package received by Dr. Cornforth and Mr. Scarselli contained a cover letter and the documentation required by NRS 288.160, but, did not contain the notification required by NRS 288.180.

6. That the package of materials submitted to this Board contained those required by NRS 288.160 and Board General Rule 6.02 and did not contain the notification required by NRS 288.180.

CONCLUSIONS OF LAW

1. That under the provisions of Chapter 288 of the Nevada Revised Statutes the Local Government Employee-Management Relations Board has original jurisdiction over the parties and subject matter of this petition.

2. That the petitioner, Douglas County Professional Education Association, is a local government employee organization within the term as defined in NRS 288.040.

3. That the petitioner, Douglas County Professional Education Association, is recognized by the respondent, Douglas County School District, as the exclusive bargaining representative for the certified teaching personnel at the Douglas County School District.

4. That the respondent, Douglas County School District, is a local government employer within the term as defined in NRS 288.060.

5. That the evidence discloses that Miss Linda Larson, President of the petitioner local government employee organization, prepared, on November 26, 1974, the notifications required by NRS 288.160 for mailing to Dr. Keith Cornforth, President of the Douglas County Board of School Trustees, and prepared a copy of the documentation for mailing to Mr. Gene Scarselli, Superintendent of the Douglas County School District.

6. That the documentary evidence discloses that the notification required under NRS 288.160 was mailed by Miss Larson on November 29, 1974, and subsequently received by both Dr. Cornforth and Mr. Scarselli.

7. That the package received by Dr. Cornforth and Mr. Scarselli contained a cover letter and the documentation required by NRS 288.160, but, did not contain the notification required by NRS 288.180.

8. That the package of materials submitted to this Board contained those required by NRS 288.160 and Board General Rule 6.02 and did not contain the notification required by NRS 288.180.

9. That, in the absence of such notification pursuant to NRS 288.180, the respondents need not formally negotiate with the petitioner on any matter which requires the budgeting of moneys.

The petition is dismissed.

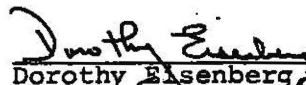
Because we have found that the petitioner failed to comply with the mandatory provisions of NRS 288.180, we have

been constrained to rule that the respondents need not formally negotiate on matters requiring the budgeting of moneys. However, we wish to point out that the evidence does not reflect that the respondents were in any way prejudiced by the failure of the petitioner to timely comply with the statutory notice provisions. In fact, the respondents' administrative personnel expressed surprise when the notification was not received. Therefore, in compliance with the spirit of Chapter 288 of the Nevada Revised Statutes, we expect the respondents to make every good faith effort to meet and confer with the petitioner's representatives regarding wages, hours and conditions of employment that are a mutual concern of the parties.

A further deterioration in the employee-management relations in the respondent school district is not to the advantage of either party.

Dated this 10th day of March, 1975.


Chris N. Karamanos, Chairman


Dorothy Eisenberg, Board Member