

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

INTERNATIONAL ASSOCIATION OF :  
FIRE FIGHTERS, LOCAL UNION NO. 319 :  
 :  
v. : Case No. PF-C-21-79-E  
 :  
CITY OF LANCASTER :

**FINAL ORDER**

The City of Lancaster (City) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on July 13, 2022, challenging a Proposed Decision and Order (PDO) issued on June 24, 2022. Specifically, the City excepts to the Hearing Examiner's conclusion that it violated Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA), as read *in pari materia* with Act 111 of 1968, when it denied a request for information from the International Association of Fire Fighters, Local Union No. 319 (Union). The Union filed a brief in opposition to the exceptions on July 21, 2022.

The facts of this case are summarized as follows. The Union is the exclusive bargaining representative for a unit of fire employees working at the City. (FF 3). The City's Fire Bureau employs 74 uniformed personnel, who hold the positions of Fire Fighter, Lieutenant, Captain, Battalion Chief, Deputy Chief and Chief. (FF 4, 5). The latter two positions are excluded from the bargaining unit. The Deputy Chief position is currently vacant such that the Battalion Chiefs report directly to the Chief. (FF 5). Geoffrey Stone is the Union President and is a Fire Fighter with the City's Fire Bureau. (FF 7).

On September 1, 2021, Mr. Stone sent an email to the City's Administrator, Patrick Hopkins seeking all correspondence between the Chief and individual bargaining unit members from January 1, 2021, to the present. (FF 8). Mr. Hopkins responded to this request on September 14, 2021, stating that the request was overly broad, that the Union was not "entitled to 'all correspondence ... between the chief and individual bargaining unit member[s] from January 1, 2021 - To Present'", and that Mr. Stone needed to clarify what documents he was seeking. (FF 10). On September 16, 2021, Mr. Stone sent another email to Mr. Hopkins inquiring whether the City was denying his request for information to which Mr. Hopkins replied "Correct. The answer I provided previously is the City's response." (FF 11, 12).

The Union filed its Charge of Unfair Labor Practices with the Board on September 21, 2021, alleging that the City violated Section 6(1)(a) and (e) of the PLRA by refusing to comply with an information request that was necessary and relevant to the Union's enforcement of the CBA. On November 10, 2021, the Secretary of the Board issued a Complaint and Notice of Hearing, directing that a hearing be held before the Hearing Examiner on December 16, 2021.

Thereafter, on December 1, 2021, Mr. Stone sent Mr. Hopkins an email narrowing the information request to include only communications between the

Fire Chief and the Battalion Chiefs for the relevant time-period. (FF 15). That same day, Mr. Hopkins responded to Mr. Stone stating that the Union's request was still overbroad and that the Union is "not entitled to see or be copied on every communication between the fire chief and the battalion chiefs." (FF 16). Mr. Stone responded, in relevant part, as follows:

[I]n response to your earlier claim of over-breadth, I narrowed the request today to only those communications between the Chief and Battalion Chiefs within the time limit previously provided.

The information is necessary and relevant to [the Union's] enforcement of the collective bargaining agreement, and monitoring for potential breaches of same.

... As there is nothing privileged or confidential in these communications, there should be no further problem in providing the requested information.

(FF 17).

In lieu of an evidentiary hearing, the parties submitted a joint stipulation of facts and exhibits to the Board's Hearing Examiner on March 17, 2022. Both parties filed post hearing briefs on April 20, 2022.

In the PDO, the Hearing Examiner concluded that the City violated Section 6(1)(a) and (e) of the PLRA by refusing to comply with the Union's information request for correspondence which could impact the bargaining process. In this regard, the Hearing Examiner stated as follows:

In this case, the Union has sustained its burden of proving that the City violated the PLRA and Act 111 by refusing to comply with the Union's September 2021 information request. The Union's information request from September 2021 sought all correspondence between the Chief and individual bargaining unit members from January 1, 2021 to the present. Although the City contends that the Union's requests were overbroad and unrelated to fulfilling its bargaining duties, it cannot be seriously disputed that the information sought pertains to the employees in the bargaining unit and their working conditions. Indeed, the Union is specifically seeking communications between the individual unit members and their manager or boss. As such, the information must be deemed presumptively relevant under the Board's caselaw, and the Union was under no duty to specify to the City why it needed the information. Nor has the City demonstrated on the record how the information is not relevant or that it cannot reasonably be provided.

(PDO at 5). The Hearing Examiner further rejected the City's arguments that the requested documents could contain confidential information and would be unduly burdensome to produce, stating that the City failed to raise these issues with the Union nor did the City bargain with the Union over them at the time of the request. As a remedy the Hearing Examiner ordered, among other things, that the City provide the requested information to the Union.

On exceptions, the City argues that the Hearing Examiner erred by finding that the Union had met its burden of proving that the City violated the PLRA and Act 111 by refusing to comply with the Union's request for "all

correspondence" between the Chief and bargaining unit employes for a nine month time-period.

Public employers have a statutory duty to provide information when requested by a union in the performance of the union's duty to negotiate or police the collective bargaining agreement. Commonwealth of Pennsylvania v. Pennsylvania Labor Relations Board, 527 A.2d 1097 (Pa. Cmwlth. 1987). The test to determine the relevancy of the request to collective bargaining is liberal, and is satisfied if the information requested by the union could be "potentially relevant or probably relevant" to the union's representation of its members. Commonwealth of Pennsylvania, Department of Corrections v. Pennsylvania Labor Relations Board, 541 A.2d 1168 (Pa. Cmwlth. 1988); Pennsylvania Social Services Union, Local 668, SEIU v. Commonwealth of Pennsylvania (Department of Public Welfare), 17 PPER ¶ 17042 (Final Order, 1986). Information sought by the union which directly involves matters of negotiable wages, hours and working conditions of represented employes is presumptively relevant. Robinson Township Police Association v. Robinson Township, 31 PPER ¶ 31025 (Proposed Decision and Order, 1999) (*citing* Curtiss-Wright Corporation v. NLRB, 347 F.2d 61 (3<sup>rd</sup> Cir. 1965)).

Here, the City asserts that the Hearing Examiner inappropriately placed the burden on the City to rebut the presumption of relevance. The City claims that the information request at issue was so broad that, although it admittedly included information related to bargaining unit employes, it also included "irrelevant, non-disclosable information" such that the request could not be "presumptively relevant." (City's Exceptions, p. 1). However, not only was the request limited to the calendar year of 2021, but it was then narrowed further by the Union to only "communications between the Chief and the Battalion Chiefs." Furthermore, despite the City's claim that the Union should have specified why it needed the information, it is clear that the Union is responsible for enforcing the CBA, which would include monitoring communications between the Chief and the bargaining unit members for possible violations of same or direct dealing concerning mandatory subjects. The fact that the Union did not have a pending grievance in this case does not nullify its right to the requested information. North Hills Education Association, PSEA/NEA v. North Hills School District, 29 PPER ¶ 29063 (Final Order, 1998). As such, the Hearing Examiner did not err in concluding that the Union's information request was "presumptively relevant."

The City further asserts that the requested communications between the Chief and Battalion Chiefs may involve sensitive operational data or decisions, as well as private health information of employes, such that the Hearing Examiner erred in concluding that the City's failure to comply with the request was a violation of its duty to bargain under the PLRA. While an employer's confidentiality interests are important, they do not give an employer an absolute right to deny a union requested information. AFSCME Council 13, AFL-CIO v. Commonwealth of Pennsylvania, Department of Revenue, Office of Inspector General, 22 PPER ¶ 22069 (Final Order, 1991). Blanket refusals to produce documents or information based on claims of confidentiality do not suffice as a defense to an unfair labor practice where information is potentially relevant. The employer must make a good faith effort to accommodate its confidentiality interests with the union's need for information. AFSCME Council 13, supra. Indeed, the employer has an obligation to negotiate over these concerns in good faith with the union as the employes' representative. *Id.*; 43 P.S. §211.6(1)(e).

Here, the City did not claim that it had a confidentiality concern when communicating with the Union about its request for information, even after Mr. Stone asserted that the Union's request did not involve any privileged or confidential information. Rather, the City flatly refused to provide the Union with the requested information despite the fact that the Union narrowed its original request. Because the City did not propose any means of cooperating with the Union to provide information while safeguarding its alleged confidentiality interest, the Board is not required to determine whether the City had a legitimate and substantial confidentiality interest in not turning over the requested information. *Id.* The City's refusal to discuss its concerns with the Union is a clear failure to bargain in good faith under Section 6(1)(e) of the PLRA.

Finally, the City contends that the Hearing Examiner erroneously failed to consider the undue burden that the City would suffer if it complied with the Union's information request as doing so would involve reviewing hundreds of emails and texts. However, not only was this not raised by the City in its communications with the Union regarding the information request, but even if it had been, "the employer cannot categorically refuse to provide the information, but rather the parties must bargain over the same." Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania, Department of Corrections (SCI Dallas), 37 PPER 24 (Proposed Decision and Order, 2004). In this case, the Hearing Examiner was not required to perform an "undue burden analysis" because the City did not even attempt to bargain with the Union to accommodate the breadth of the Union's request even after the Union limited its request to communications between the Chief and the Battalion Chiefs.

After a thorough review of the exceptions and all matters of record, the Hearing Examiner properly concluded that the City violated Section 6(1)(a) and (e) of the PLRA by refusing to provide information requested by the Union. Accordingly, the Board shall dismiss the exceptions and make the Proposed Decision and Order final.

#### ORDER

In view of the foregoing and in order to effectuate the policies of the Pennsylvania Labor Relations Act and Act 111, the Board

#### HEREBY ORDERS AND DIRECTS

that the exceptions filed by the City of Lancaster are hereby dismissed, and the Proposed Decision and Order issued on June 24, 2022, shall be, and the same is, hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, James M. Darby, Chairman, Albert Mezzaroba, Member, this twenty-fourth day of January, 2023. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.

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AFFIDAVIT OF COMPLIANCE

The City of Lancaster hereby certifies that it has ceased and desisted from its violation of Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act; that it has complied with the Proposed Decision and Final Order as directed herein; that it has posted a copy of the Proposed Decision and Order and Final Order as directed; and that it has served an executed copy of this affidavit on International Association of Fire Fighters, Local Union No. 319 at its principal place of business.

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Title

SWORN AND SUBSCRIBED TO before me  
the day and year first aforesaid.

\_\_\_\_\_  
Signature of Notary Public