

BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD
STATE OF OKLAHOMA

Public Employees Relations Board

INTERNATIONAL ASSOCIATION)
OF FIREFIGHTERS, LOCAL 2374,)
)
Complainant,)
)
v.)
)
CITY OF WARR ACRES, OKLAHOMA,)
)
Respondent.)

FILED

MAR 03 2007

Case No. 00439

ORDER

This matter came on for hearing before the Public Employees Relations Board (the "Board") on the 11th day of January, 2007, on the Motion for Summary Judgment filed by the Respondent City of Warr Acres, Oklahoma (the "City"). The City appeared by and through its attorneys, Robert M. Jernigan and Tony G. Puckett. The Complainant International Association of Firefighters, Local 2374 (the "Union" or "IAFF, Local 2374") appeared by and through its attorney, Everett Bennett. At the hearing, the Union cross moved for summary judgment.

The Union brought this action alleging that the City refused to negotiate in good faith certain matters requiring the appropriation of moneys by the City for the 2006-2007 fiscal year in violation of 11 O.S. 2001 § 51-102(6)(6a)(5) of the Fire and Police Arbitration Act, 11 O.S. 2001 & Supp. 2006 §§ 51-101 *et seq.* (the "FPAA"). The City argued in its motion that it is entitled to judgment as a matter of law on the Union's Unfair Labor Practice charge because the Union failed to give the City timely notice to bargain. The Union argued in its cross motion that it is entitled to judgment as a matter of law on the issue that its notice was timely pursuant to the Collective Bargaining Agreement for fiscal year 2005-2006, July 1, 2005, through June 30, 2006 (the "FY 2005-2006 CBA") and relevant statutory authority.

The Board finds that there is no substantial controversy as to the following facts or issues:

1. The parties negotiated the FY 2005-2006 CBA. Agreement Between the City of Warr Acres, Oklahoma, A Municipal Corporation and the International Association of Fire Fighters, Local 2374, Fiscal Year 2005-2006.

2. Paragraph 2.2 of Article 2 of the FY 2005-2006 CBA provides:

Whenever economic matters requiring the appropriation of monies by the City are included as items for collective bargaining, the Union shall give written notice of request for collective bargaining to the City at least one hundred twenty (120) days prior to June 30, 2006.

3. On March 1, 2006, the City received written notice of IAFF's intention to collectively bargain matters requiring the appropriation of moneys by the City to cover the 2006-2007 fiscal year. Return Receipt produced by IAFF.

The Board concludes as a matter of law as follows:

1. Title 11 O.S. 2001 § 51-112 provides:


Whenever wages, rates of pay or any other matters requiring appropriation of moneys by any municipality are included as matters of collective bargaining conducted under the provisions of this article, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the corporate authorities at least one hundred twenty (120) days before the last day on which moneys can be appropriated by the municipality to cover the contract period which is the subject of the collective bargaining procedure.

2. The Oklahoma Municipal Budget Act, 11 O.S. 2001 & Supp. 2006 § 17-201, et seq. (the "OMBA"), applies to the City of Warr Acres.

3. To clarify "the last day on which moneys can be appropriated by the municipality to cover the contract period which is the subject of the collective bargaining procedure" the parties included Paragraph 2.2 of Article 2 in the FY 2005-2006 CBA.

4. Pursuant to Paragraph 2.2 of the FY 2005-2006 CBA, the Union's notice was timely.
5. Based upon the aforementioned facts to which no genuine issue exists, the Union's cross motion that it is entitled to judgment on the issue that its notice was timely is granted.
6. The City's motion for summary judgment that it is entitled to judgment on the Union's Unfair Labor Practice charge because the Union failed to give the City timely notice to bargain is denied.
7. Pursuant to 11 O.S. 2001 § 51-102(6)(6a)(5), the evidence must establish a refusal to bargain collectively in good faith before the Board can find an unfair labor practice. Based on the record before the Board, the evidence is insufficient to find such a refusal. With this ruling the Board expects the parties to bargain collectively in good faith. If the City refuses to so bargain, the Union can reurge its Unfair Labor Practice charge.

Dated: 3/12/07



Larry W. Gooch, Member
Public Employees Relations Board

Dissenting – Craig W. Hoster, Chair –

I dissent. The execution of the Collective Bargaining Agreement was neither a clarification nor a waiver of the provisions of the Fire and Police Arbitration Act or the Oklahoma Municipal Budget Act. The Union's notice was not timely. I would grant summary judgment in favor of the City.



Craig W. Hoster, Chair
Public Employees Relations Board