

State of New Hampshire

WPPID1044



PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

STATE FIREFIGHTERS (Adjutant General's Department) Docket #93-O-2

February 16 1993

By letter dated January 8, 1992, SEA Field Representative filed an appeal on behalf of Almond A. Osgood, Jr., Daniel M. Moore and all other similarly affected employees of the Adjutant General's Department at the Pease Development Authority, Portsmouth New Hampshire. Mr. McCormack asserted that the affected employees received lay-off notices dated December 28, 1992. He further stated the terms of the lay-off, and benefits to which the Firefighters were considered eligible, were described in a memorandum from Business Administrator Leslie Mason to the Adjutant General. That memo said they were not entitled to statutorily defined State-paid health insurance benefits or placement on the general employment "call-back" list. The appellants have taken the position that they are entitled to the benefits established by Chapter 261 of the Laws of 1990 (HB 1506-FN) and subsequently extended by Chapter 355, Laws of 1991.

Mr. McCormack argued that although the disputed benefits are defined by statute rather than by administrative rule, the Board has jurisdiction to hear and decide the appeal because the appellants are full-time classified employees. He argued the only disagreement was whether these employees qualified as "laid off" employees pursuant to Chapter 261, Laws of 1990, since their lay-off was a result of a reduction in federal funding rather than a State budget act.

Mr. McCormack stated there were no facts in dispute, but that there were two outstanding legal issues:

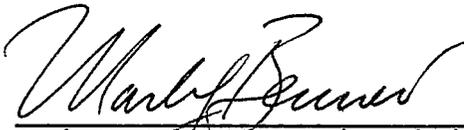
1. Does the Personnel Appeals Board have jurisdiction to hear and decide this appeal?
2. Does Chapter 261, Laws of 1990, apply to these employees, whose lay-offs were the result of a reduction in federal funding for their positions?

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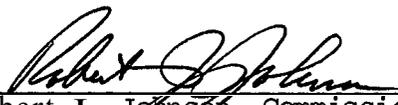
Mr. McCormack asked that the Board schedule a hearing in the matter as expeditiously as possible so that the matter might be taken to a "higher authority" for resolution if necessary.

The Board will allow the appellants fifteen calendar days from the date of this order in which to file a memorandum of law with supporting documentation on both outstanding legal issues. A copy of that memorandum and any supporting documents shall be forwarded simultaneously to the Director of Personnel. The Director shall have fifteen days thereafter in which to file a response.

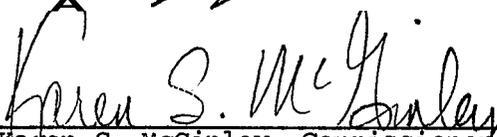
THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Robert J. Johnson, Commissioner



Karen S. McGinley, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Stephen J. McCormack, SEA Field Representative
Leslie Mason, Business Administrator, Adjutant General's Department