

State of New Hampshire

WPPID708



88-D-105

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

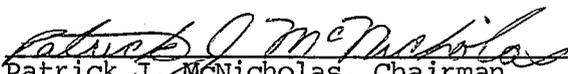
APPEAL OF GLEN TAYLOR
Response to State's Motion for Reconsideration and Stay of Order

February 27, 1991

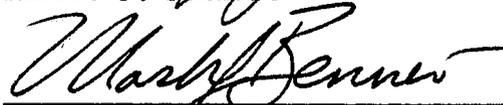
On January 15, 1991, the Department of Fish and Game, through its attorney Leslie J. Ludtke, filed a Motion for Reconsideration and Stay of Order relative to the Board's January 10, 1991 order which required the State to pay two weeks salary to Mr. Taylor for the period of his September, 1987 suspension without pay. SEA General Counsel Michael Reynolds filed a response by letter dated February 4, 1991 which, by letter dated February 15, 1991, he asked to withdraw and replace with a similar submission entitled Objection to State's Motion for Reconsideration and Stay of Order. The Board voted to grant his February 15th request to file the amended Objection.

In consideration of the State's Motion and Appellant's Objection, the Board affirms its earlier order, directing the State to make immediate payment to Mr. Taylor as prescribed in its January 10, 1991 decision and order. In so doing, the Board denies the State's Motion. In light of the record before it, payment of the two-weeks salary to the appellant, and acceptance of his withdrawal of all other pending personnel appeals, is the only just and equitable resolution. The Board finds that the State has failed to demonstrate that such order is either unreasonable or unlawful.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Robert J. Johnson


Mark J. Bennett

cc: Virginia A. Vogel, Director of Personnel
Michael C. Reynolds, SEA General Counsel
Leslie J. Ludtke, Assistant Attorney General

State of New Hampshire

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88-0-105

APPEAL OF GLEN TAYLOR New Hampshire Department of Fish and Game January 10, 1991

On December 15, 1987, the New Hampshire Personnel Appeals Board convened the first of several pre-hearing conferences relative to the issue of Glen Taylor's appeal of a two-week suspension without pay for the period of September 10, 1987 through September 24, 1987. From the initial filing of the appeal through the Board's last order to the parties dated June 25, 1990, neither party has demonstrated a willingness to resolve the issue at hand, either by moving forward with a hearing on the merits, or by agreeing to settle the matter without a hearing.

The Board's most recent meeting with the parties occurred on March 28, 1990 when Commissioners McNicholas, Cushman and Johnson convened a status conference in an attempt to bring the issue to closure. Attorneys Ludtke and Reynolds, representing the parties, assured the Board that they were prepared to reach a settlement, and that within ten days they would forward to the Board a statement of the progress they had made in reaching such a settlement. Attorney Reynolds sent the Board a copy of a one-page letter to Attorney Ludtke in which he again offered to have Mr. Taylor drop all appeals presently pending before the Board in exchange for two weeks' salary to cover the period of his suspension. Attorney Ludtke failed to provide a copy of her response to the Board as the Board had directed.

On June 25, 1990, hearing nothing further from the parties, the Board issued an order requiring the State, within 10 days to forward a copy of its response, if any had been given, to the appellant's last known settlement offer. Charles B. Holtman, Assistant Attorney General, responded by letter dated June 26, 1990, stating that Attorney Ludtke was away from the office until July 9, 1990. Attorney Holtman submitted on her behalf a copy of an April 10, 1990 letter from Attorney Ludtke to Attorney Reynolds in which she reiterated the Department of Fish and Game's position that without verification from Mr. Taylor of the specific time worked by him for the Canaan Police Department during the period of his suspension, the Department would continue to refuse payment as part of the settlement agreement. Attorney Ludtke concluded, "...I question whether your letter of April 5, 1990 constitutes a serious attempt at settlement. Even if the State were to lose before the Personnel Board on the suspension appeal, the extent of the State's liability would be to reimburse Mr. Taylor for two weeks of pay. In my experience, to be successful, settlement proposals generally require compromise. I look forward to receiving the requested information from you." To date, neither party has provided notice that a settlement has been reached,

nor has either party suggested that the Board move forward with a hearing on the merits of Mr. Taylor's appeal of suspension.

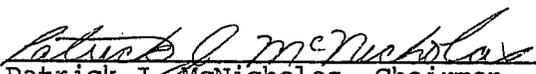
In the Board's opinion, neither party has made a good faith effort to resolve this matter. The appellant appears to have made little or no effort in investigating or reporting what his earnings from the Canaan Police Department might have been during the course of his suspension. The State appears to have done equally little to reach any resolution, offering little or nothing in response to the appellant. The State has been equally unresponsive to inquiries by the Board, unless those inquiries are presented in the form of a direct order.

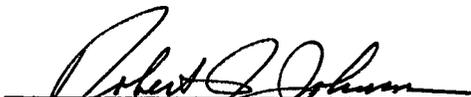
The parties have all but refused to negotiate a settlement, despite their representations to the Board that an agreement could be reached. On each and every occasion that the Board has scheduled a pre-hearing conference, a hearing, or a status conference, the parties have presented themselves unprepared and unwilling to move towards resolution of the issue.

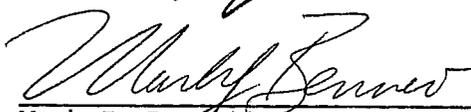
The Board hereby orders the Department of Fish and Game to make payment to **Mr. Taylor**, through his representative the State Employees' Association of N.H., Inc., for his full wages for the period of September 10, 1987 through September 24, 1987. The State shall not delay such payment with the expectation of reducing that payment by the amount of Mr. Taylor's unspecified earnings during that period for work performed for the Canaan Police Department. Notice that payment has been made shall be forwarded immediately to the Personnel Appeals Board.

Having directed that such payment be made, the Board hereby accepts withdrawal of any and all appeals pending before this Board, in keeping with the appellant's proposed settlement agreement of April 5, 1990.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Robert J. Johnson


Mark J. Bennett

cc: Michael C. Reynolds, SEA General Counsel
Leslie Ludtke, Assistant Attorney General, Environmental Bureau
Donald Normandeau, Director, Department of Fish and Game
Virginia A. Vogel, Director of Personnel
Civil Bureau - Attorney General's Office

State of New Hampshire

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88-D-105

APPEAL OF GLEN TAYLOR
Department of Fish and Game

June 25, 1990

On March 28, 1990, the Personnel Appeals Board (McNicholas, Cushman and Johnson) convened a status conference in Glen Taylor's appeal(s). Michael Reynolds, SEA General Counsel appeared on behalf of the appellant. Assistant Attorney Leslie Ludtke appeared on behalf of the State.

At the conclusion of the conference, representatives of the parties were directed to notify the Board, within ten days, of the progress made in reaching a settlement. Attorney Reynolds forwarded to the Board a copy of a one-page letter to Attorney Ludtke in which he again offered to have Mr. Taylor drop all appeals presently pending before the Board in exchange for two weeks' salary to cover the period of his suspension without pay. In so doing, however, he again declined to waive any other possible rights or causes of action. The Board received no response from Attorney Ludtke.

The State is hereby directed to forward a copy of its response to the Board. Such response shall be received within ten days of the date of this order.

FOR THE PERSONNEL APPEALS BOARD

A handwritten signature in cursive script that reads "Mary Ann Steele".

MARY ANN STEELE
Executive Secretary

cc: Leslie J. Ludtke, Assistant Attorney General
Environmental Bureau

Michael C. Reynolds, SEA General Counsel

Virginia A. Vogel, Director of Personnel

Donald Normandeau, Executive Director, Fish and Game Department