STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF RHODE ISLAND STATE LABOR RELATIONS BOARD -AND- TOWN OF WARREN	CASE NO: ULP-5964

DECISION AND ORDER

TRAVEL OF CASE

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board") on an Unfair Labor Practice Complaint (hereinafter "Complaint") issued by the Board against the Town of Warren (hereinafter "Employer") based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated April 3, 2009 and filed on April 8, 2009 by the United Steel Workers, Local 14845 (hereinafter "Union").

The Charge alleged:

> "Since on or about 3/1/09, the Town of Warren, through its new City Solicitor, has failed and refused to meet with Local and International Representatives for the purpose of resolving grievances. In addition to oral entreaties, letters dated 3/7/09 and 3/23/09 requesting such a meeting have gone unanswered. In one case, the grievance involves a matter which the previous City Solicitor promised would be resolved upon the receipt of certain information, which was provided to both the previous and current solicitor, without resolving the matter in the former case or even being acknowledged by the latter. This pattern of behavior has been seen in Warren before, has come to the attention of the Board before, and is only altered, temporarily, when the conduct is brought to the Board's attention."

Following the filing of the Charge, in lieu of an informal hearing, the parties submitted written position statements. The Board issued its Complaint on August 24, 2009. The Employer failed to file an Answer to the Complaint. A formal hearing on this matter was held on October 13, 2009. Representatives of both the Union and the Employer were present and had full opportunity to introduce testimonial and documentary evidence. In attempting to arrive at a Decision and Order on the substance of the Employer's complaint, the Board has reviewed and considered the testimony, evidence, and the parties' oral arguments.

At the Board's meeting on May 21, 2009 a motion was made by Board member John Capobianco and seconded by Board member Ellen Jordan to uphold the charge filed in this matter. All Board Members voted in favor of the motion and referred the matter to legal counsel for drafting. On May 11, 2010, the Board voted to adopt and sign the draft decision as written.

DISCUSSION

In this case, the simple facts are not in dispute. On March 7, 2009, the Union wrote to the new Town Solicitor, advising him of two (2) outstanding grievances, one (1) being a vacation carryover issue and the other concerning a dispute over a pay rate for a posted temporary vacancy, as well as other outstanding matters. On March 23, 2009, having heard nothing from the Solicitor, the Union again wrote, requesting that the Solicitor contact the Union to discuss the pending matters. The Union received no response whatsoever to its inquiries. Thereafter, on April 8, 2009, the Union filed a charge with the Board alleging that the Employer was engaging in an unfair labor practice by failing and refusing to meet with the Union to discuss grievances. The Charge was processed and on August 24, 2010, the Board issued its complaint.

The Employer submitted a statement in lieu of an informal oral conference. In that statement, the Employer claimed that there had been significant turnover in the Town's management during the spring of 2009 and that management was shorthanded. The Employer argued that the Union's filing was premature and unwarranted. The Employer claimed that it would be willing to meet, but that it was unfair of the Union to try to "stampede newly appointed officials" who need some time to come up to speed on a variety of issues. The Board issued its complaint in August of 2009, and the Employer failed to file an answer to the complaint. When the Board held the hearing in October, the Employer showed up late to the hearing. The Employer proffered no defense for its inaction and claimed to now be ready to meet with the Union. Upon conclusion of the formal hearing, the Chair advised the parties that it they did finally meet and resolve their issues, that they should notify the Board so that this case could be dismissed. The parties never notified the Board that the matter had been resolved.

A fundamental premise of collective bargaining is the requirement of good faith. The most minimal showing of good faith requires that one party at least acknowledge

the existence of the other party by responding in some fashion, to reasonable inquiries made by the other party in the collective bargaining relationship. In this case, as with most collective bargaining agreements, the parties have negotiated a process for resolving grievances. The process involves a series of progressive steps which require the involvement of management employees. The Employer argued that it did not purposefully avoid dealing with the Union and those personnel changes simply prevented the opportunity to meet in a timely manner. The Union responded to the defense as being overdone. Had there only been a temporary disruption to the dispute resolution process or had the Employer simply advised the Union that it was having some problems, then perhaps the charge would never have been filed. However, the charge was filed over a year ago and there has been no notification to this Board that the parties finally resolved the matter. The Employer has simply ignored its statutory duty to meet and confer with the Union via the negotiated grievance procedure. The Employer has, therefore, violated R.I.G.L. 28-7-13 (6) and (10).

FINDINGS OF FACT

1) The Town of Warren is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
2) The Union is a labor organization, which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection and, as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
3) The Employer and the Union are parties to a collective bargaining agreement which contains a three step grievance procedure. (Union Exhibit #4)
4) On March 7, 2009, the Union wrote to the new Town Solicitor, advising him of two (2) outstanding grievances, one (1) being a vacation carryover issue and the other concerning a dispute over a pay rate for a posted temporary vacancy, as well as other outstanding matters.
5) On March 23, 2009, having heard nothing from the Solicitor, the Union again wrote, requesting that the Solicitor contact the Union to discuss the pending matters. The Union received no response whatsoever to its inquiries.

6) Thereafter, on April 8, 2009, the Union filed a charge with the Board alleging that the Employer was engaging in an unfair labor practice by failing and refusing to meet with the Union to discuss grievances.

7) The Charge was processed and on August 24, 2010, the Board issued its complaint.

8) By the time the formal hearing commenced on October 13, 2009, the Town Solicitor still had not met with the Union to discuss the outstanding grievances, but the Solicitor did make a representation to this Board that he was prepared to meet with the Union.

9) The Board advised the parties that if they do meet and resolve the issue, to notify the Board that that matter had become moot. The Board never received any notification that the issue had been resolved by the parties.

CONCLUSIONS OF LAW

1) The Union has proven by a fair preponderance of the credible evidence in the record that the Employer committed a violation of R.I.G.L. 28-7- 13 (6) and (10) by continually and consistently failing and refusing to meet with the Union to discuss pending grievances.

ORDER

1) The Employer is hereby ordered to meet and confer in good faith with Union representatives within fifteen calendar days from the date of this decision.

2) The Employer is hereby ordered to post a copy of this decision on all employee bulletin boards for a period of no less than sixty (60) days.

3) The Employer shall cease and desist from refusing to meet to discuss grievances. The Employer is warned that should it persist in this behavior in the future, this Board will consider issuing a monetary remedy.

RHODE ISLAND STATE LABOR RELATIONS BOARD

WALTER J. LANNI, CHAIRMAN

FRANK MONTANARO, MEMBER

GERALD S. GOLDSTEIN, MEMBER

ELLEN L. JORDAN, MEMBER

JOHN R. CAPOBIANCO, MEMBER

ELIZABETH S. DOLAN, MEMBER

ENTERED AS AN ORDER OF THE
RHODE ISLAND STATE LABOR RELATIONS BOARD

Dated: AUGUST 16, 2010

By: _____
ROBYN H. GOLDEN, ADMINISTRATOR

ULP- 5964

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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NOTICE OF RIGHT TO APPEAL AGENCY DECISION PURSUANT TO R.I.G.L. 42-35-12

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. ULP-5964 dated August 16, 2010 may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **August 16, 2010.**

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: August 16, 2010

By: _____
Robyn H. Golden, Administrator