

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

PENNSYLVANIA STATE PARK OFFICERS :  
ASSOCIATION :  
:  
v. : Case No. PF-C-05-155-E  
:  
COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF CONSERVATION AND :  
NATURAL RESOURCES :

**PROPOSED DECISION AND ORDER**

On November 3, 2005, the Pennsylvania State Park Officers Association (Association) filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) alleging that the Commonwealth of Pennsylvania, Department of Conservation and Natural Resources (Commonwealth) violated Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA) and Act 111. By letter dated January 4, 2006, the Secretary of the Board declined to issue a complaint. The Association filed exceptions to the Secretary's decision on January 23, 2006. On February 21, 2006, the Board issued an order remanding the matter to the Secretary for issuance of a complaint. On March 13, 2006, the Secretary issued a complaint and notice of hearing, which directed that a hearing be held before a Board hearing examiner on May 9, 2006. Pursuant to several requests by the parties, the hearing was continued to October 6, 2006. On that date, all parties in interest appeared before the examiner and were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. Both parties filed post-hearing briefs on or before November 22, 2006.

The examiner, on the basis of the testimony and exhibits presented at the hearing and from all other matters and documents of record, makes the following:

**FINDINGS OF FACT**

1. The Commonwealth is an employer for purposes of the PLRA and Act 111.
2. The Association is a labor organization for purposes of the PLRA and Act 111.
3. The Association represents a bargaining unit that includes the following positions within the Department of Conservation and Natural Resources (DCNR): DCNR ranger, DCNR ranger supervisor and DCNR ranger operation specialist. (N.T. 10)
4. DCNR rangers have authority similar to a police officer and receive law enforcement training, including Act 120 training and annual updates. (N.T. 8-9, 41)
5. Managers of state parks have the same authority as DCNR rangers and receive the same training. (N.T. 41)
6. The DCNR also employs Park Ranger I's. Park Ranger I's do not have law enforcement authority and are not required to complete Act 120 training. Park Ranger I's are in a different bargaining unit than DCNR rangers, and have different representation and a different contract. (N.T. 40-43)
7. Park Ranger I's at Gifford Pinchot State Park are required to sign off on a management directive issued by the Bureau of State Parks that describes the duties that may and may not be undertaken by employees who are not authorized law enforcement officers. (N.T. 40-42, 57-58; Commonwealth Exhibit 1)
8. On or about September 1, 2005, the park manager at Gifford Pinchot State Park revised the dispatch list that had been provided to the York County 911 Center to, inter alia, add the names of two seasonal Park Ranger I's. The revised list identified these

employees as "non-law enforcement" personnel. The revised list indicated that the preferred order of phone or radio calls when a park ranger was on duty would be to refer law enforcement matters to law enforcement personnel, and to refer non-law enforcement matters to non-law enforcement personnel. (N.T. 48-50, 60, 64-65; Association Exhibit 1)

9. The park manager at Gifford Pinchot State Park issued the revised dispatch list on or about September 1, 2005 because, inter alia, he wanted to insure that the York County 911 Center was aware that Park Ranger I's are not law enforcement officers and should not be dispatched to dangerous situations. (N.T. 48-50, 54-55)

10. Unlike the DCNR rangers, the Park Ranger I's at Gifford Pinchot State Park do not have the park manager's permission to log on with the County 911 Center when they come on duty. (N.T. 55)

11. Before September 1, 2005, the park manager, assistant park manager and Park Ranger I's at Gifford Pinchot State Park had responded to calls that were received from the York County 911 Center. (N.T. 24-25, 33-34, 48-50, 54-56, 70-72)

#### DISCUSSION

The Association alleges that the Commonwealth violated Section 6(1)(a) and (e) of the PLRA and Act 111 by unilaterally transferring bargaining unit work to non-unit personnel. Specifically, the Association contends that Park Ranger I's, who are not law enforcement officers and are not members of the bargaining unit that includes DCNR rangers, are now responding to 911 calls within state parks, whereas previously DCNR rangers were solely responsible for responding to such calls.

An employer commits an unfair practice by unilaterally transferring work that is exclusively performed by bargaining unit employees to non-unit personnel. AFSCME v. PLRB, 616 A.2d 135 (Pa. Cmwlth. 1992). Even where the work at issue is not exclusively performed by the bargaining unit, an employer commits an unfair practice by failing to negotiate with the union before significantly altering its past practice regarding assignment of the work to members and non-members of the unit. Id.

Although the Association's unfair practice charge is broadly stated so as to seemingly cover state parks generally, the Association only offered evidence concerning two state parks: Codorus State Park and Gifford Pinchot State Park. An Association witness who is a DCNR ranger at Codorus State Park testified that before the alleged date of the unfair practice (September 1, 2005) DCNR rangers at Codorus State Park exclusively responded to 911 calls within the park (N.T. 11-12). This same witness testified that nothing changed in Codorus after September 1, 2005. Id. Therefore, the Association failed to prove a change in a negotiable matter at Codorus State Park.

Insofar as the Association's charge concerns Gifford Pinchot State Park, it must be dismissed for several reasons. First, the Association did not prove that members of the DCNR ranger bargaining unit exclusively responded to 911 calls at Gifford Pinchot before September 1, 2005. To the contrary, the record indicates that Park Ranger I's, park managers and assistant park managers, none of whom are members of the bargaining unit represented by the Association, had responded to 911 calls in Gifford Pinchot State Park before September 1, 2005 (N.T. 24-25, 33-34, 48-50, 54-56, 70-72).

Second, not only did the Association fail to prove that DCNR rangers exclusively responded to 911 calls in Gifford Pinchot State Park before September 1, 2005, but the Association failed to offer any evidence concerning the number of 911 calls to which unit and non-unit personnel responded before and after September 1, 2005. Accordingly, the Association failed to offer the requisite evidence to prove that the Commonwealth significantly altered its past practice regarding the amount of work assigned to members and non-members of the unit. See North Wales Borough, 37 PPER 176 (Proposed Decision and Order, 2006)(where work is shared by members and non-members of bargaining unit, complainant must prove that the employer increased the amount of work that is assigned to non-unit employees).

Third, the Association failed to prove that the Commonwealth transferred work from the DCNR ranger bargaining unit to non-unit personnel. The York County 911 Center, rather than the Commonwealth, dispatches 911 calls to personnel working at Gifford Pinchot State Park, and the Association failed to prove that the Commonwealth exercises control over the manner in which the 911 Center dispatches calls. Although the September 1, 2005 dispatch list issued by the Gifford Pinchot park manager expresses a preference that DCNR rangers be dispatched to law enforcement matters and that Park Ranger I's be dispatched to non-law enforcement matters, there is no evidence that the York County 911 Center actually follows that procedure. Because the Association failed to prove that the Commonwealth unilaterally transferred DCNR ranger bargaining unit work to non-unit personnel, the unfair practice charge must be dismissed. See Ellwood City Police Wage and Policy Unit v. PLRB, 731 A.2d 670 (Pa. Cmwlth. 1999)(unfair practice charge against borough dismissed where complainant alleged that borough made unilateral change in employe working conditions, but complained of action was actually taken by district justice).

#### CONCLUSIONS

The examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The Commonwealth is an employer within the meaning of the PLRA and Act 111.
2. The Association is a labor organization within the meaning of the PLRA and Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The Commonwealth has not committed unfair labor practices in violation of Section 6(1)(a) or (e) of the PLRA and Act 111.

#### ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the examiner

#### HEREBY ORDERS AND DIRECTS

that the charge of unfair labor practices is dismissed and the complaint issued thereon is rescinded, and

#### IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall be and become absolute and final.

SIGNED, DATED AND MAILED this twenty-second day of February, 2007.

PENNSYLVANIA LABOR RELATIONS BOARD

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PETER LASSI, Hearing Examiner

February 22, 2007

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
Case No. PF-C-05-155-E

Enclosed is a copy of the proposed decision and order issued in the above-captioned matter.

Sincerely,

PETER LASSI  
Hearing Examiner

Enclosure

cc: Donald Adams  
Commonwealth of PA, DCNR  
Anthony M. Caputo, Esquire