

City v. L. 246, SEIU, 5 OCB 8 (BCB 1970) [Decision No. B-8-70 (Arb)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING.

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In the Matter of	DECISION NO. B-8-70
CITY OF NEW YORK,	
Petitioner,	
-and-	DOCKET NO. BCB-69-70
LOCAL 246, S.E.I.U., AFL-CIO,	
Respondent.	

DECISION AND ORDER

\_\_\_\_\_The City's petition herein seeks a determination that a grievance urged by Respondent is not arbitrable.

The grievance, as stated in Respondent's request for arbitration, is that two employees of the Fire Department were discharged because of their union activities, in violation of §§703 and 704 of the New York State Labor Law (the State Labor Relations Act).

The City contends that the grievance is not arbitrable under the New York City Collective Bargaining Law and Executive Order 52. Respondent concedes and admits "There is no agreement involved."

Section 715 of the State Labor Relations Act expressly excludes from its coverage "employees of the state or of any political or civil subdivision thereof." As Respondent concedes no collective agreement is involved, there is no basis for contractual arbitration. Nor does the grievance herein come within the definitions of "grievance" contained in NYCCBL, §1173-3.0o or §8a(2) of Executive Order 52.

Section 1173-5.0a(1) of the NYCCBL expressly provides that the Board of Collective Bargaining "shall have the power and duty" to consider disputes as to whether there has been full faith compliance with the provisions of the law.

Accordingly, we shall grant the City's petition without prejudice to the filing of a petition by Respondent pursuant to §1173-5.0a(1).

O R D E R

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

O R D E R E D , that the petition of the City for a determination that the grievance herein is not arbitrable be, and the same hereby is, granted without prejudice to the filing of a petition by Respondent pursuant to §1173-5.0a(1) of the New York City Collective Bargaining Law.

DATED: New York, N.Y.  
October 26 , 1970.

ARVID ANDERSON  
C h a i r m a n

WALTER L. EISENBERG  
M e m b e r

ERIC J. SCHMERTZ  
M e m b e r

EDWARD SILVER  
M e m b e r