

City v. L. 246, SEIU, 9 OCB 16 (BCB 1972) [Decision No. B-16-72 (Arb)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

In the Matter of

THE CITY OF NEW YORK,
Petitioner

DECISION NO. B-16-72

DOCKET NO. BCB-123-72

-and

LOCAL 246, S.E.I.U., AFL-CIO,

Respondent.

DECISION AND ORDER

The City's petition herein seeks a determination that a grievance asserted by Respondent Union is not arbitrable.

Respondent complains of, and seeks arbitration concerning, the following conduct:

"The requirement, by the Fire Department of the City of New York, that auto service men remove and replace certain truck wheels and tires without help . . ."

Respondent filed a Request for Arbitration, claiming that the conduct described above violates the following contract provision, rule or regulation: "Executive Order No.52, Section 5.c." The City's petition asserts that Executive Order No.52 Section 5.c. "merely delineates management's rights".

Respondent's answer to the City's petition states that the conduct complained of results in a misapplication of the Fire Department's rules and regulations, but does not identify the pertinent rules and regulations. The City's reply asserts that the failure to identify the rules and regulations allegedly misapplied renders the Union's answer so vague and ambiguous that the City is unable to respond to it.

The Union has taken no steps to clarify its answer.

We find that the Union's Request for Arbitration, based upon Executive Order 52, Section 5.c., provides no basis for the Union's claim that it has an arbitrable grievance. We agree with the City's assertion that the Union's claim of a misapplication of rules and regulations is not expressed with sufficient clarity in its answer to enable the City to respond to it. Accordingly, we shall grant the City's petition, without prejudice, however, to the Union to file a request for arbitration in accordance with our decision.

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

ORDERED, that the petition herein be, and the same hereby is, in accordance with the decision herein, granted; and, it is further

ORDERED, that Respondent's request for arbitration is, in accordance with the decision herein, denied without prejudice.

DATED: New York, N.Y.
September 27, 1972

Arvid Anderson
CHAIRMAN

Eric J. Schmertz
MEMBER

Walter L. Eise
MEMBER

John Mortimer
MEMBER

Edward Silver
MEMBER