

MEBA v. FDNY, 5 OCB 3 (BCB 1970) [Decision No. B-3-70 (Scope)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of

NATIONAL MARINE ENGINEERS'
BENEFICIAL ASSOCIATION,
DISTRICT NO. 1,

DECISION NO. B-3-70

Petitioner,

DOCKET NO. BCB-18-68

vs.

THE NEW YORK CITY FIRE DEPARTMENT,

A P P E A R A N C E S :

David Lytle
for the Union

Philip J. Ruffo, Esq.
for the New York City
Fire Department

DECISION AND ORDER

_____ On September 13, 1968, Petitioner filed a petition herein alleging that Respondent had violated Section 1173-7.0c(3) (d) of the New York City Collective Bargaining Law by unilaterally changing the duties of Assistant Marine Engineer.

Issue was joined by the filing of Respondents' answer on October 4, 1968, and Petitioners' reply on October 9, 1968.

On November 13, 1968, a hearing was duly held before Richard J. Horrigan, Esquire, Trial Examiner, duly designated by the Board.

On December 19, 1968, the Trial Examiner issued his intermediate report and on January 3, 1969, Petitioner filed exceptions thereto. Since that time, the matter has been held in abeyance at the joint request of the parties, pending adjustment.

On March 6, 1970, the Office of Labor Relations filed with the Board a copy of a Fire Department order revoking the order which was the basis of the dispute herein. Revocation of that order is conceded by Petitioner, but Petitioner urges that the proceeding should be continued because of alleged unilateral action by the Fire Department concerning the color of uniforms.

The issue which Petitioner now attempts to interject was not raised or litigated in the present proceeding. The change in the duties of Assistant Marine Engineers, the sole issue litigated, having been canceled and revoked, the issue in the instant proceeding has become moot. Accordingly, we shall direct that this proceeding be closed as moot, without prejudice to the right of Petitioner to take such action as it may deem advisable on other matters.

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 this proceeding be, and the same hereby is, closed as moot, without prejudice to Petitioner's right to take such action as it deems advisable concerning matters not litigated herein.

DATED: New York, N.Y.
June 6 , 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

TIMOTHY W. COSTELLO
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M e m b e r