

STATE OF MAINE
HANCOCK, ss

SUPERIOR COURT
DOCKET NO. CV-09-67
KMC - HAN - 2/23/2010

HANCOCK COUNTY
Plaintiff

V.

TEAMSTERS UNION LOCAL 34
o/b/o Natalie Walker
Defendant

DECISION AND ORDER

Defendant Teamsters brought a claim regarding overtime payment due to Natalie Walker under a collective bargaining agreement between the Plaintiff Hancock County and Defendant Teamsters Union Local 340.

Plaintiff brought a claim pursuant to 14 M.R.S. §5928(2) [Uniform Arbitration Act], to stay an arbitration proceeding. That statute provides in part that "... the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate." Counsel have provided a copy of the labor agreement between Plaintiff and Defendant together with supporting affidavits and documentation as well as written argument. This matter was orally argued on January 29, 2010.

Plaintiff submitted evidence that Natalie Walker was employed for less than six months at the time the alleged overtime pay was due to her. While the Defendant does not concede this point, it offers no evidence in opposition to the length of time this employee was employed. The Defendant argues that the language in the Municipal Public Employees Labor Relations Act at §962, definitions, requires an interpretation of the contract favoring arbitrations. In particular the Defendant relies on the language "(a)s used in this chapter the following terms

shall, unless the context requires a different interpretation, have the following meanings..." Defendant argues that this language permits/compels the underlying contract to be interpreted in favor of allowing an arbitrator to determine if the term 'public employee' can be interpreted based on past business practice to have been amended to include a part time employee.

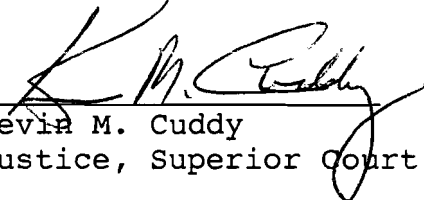
The Court agrees that the contract between Plaintiff and Defendant that provides for arbitration (See Article 46), is predicated on and draws its meaning from the Maine Public Employees Labor Relations Law. That statute provides in short sentences that a part time employee is not a Public Employee, as that term is used in the Act. *City of Bangor v. AFSCME Council 74*, 449 A.2d 1129 (ME. 1982).


This Court views Defendant as not requesting an expansive interpretation of the language of the Maine Public Employees Labor Relations Law, but asking that it be re-written. It is for the legislature to provide the relief requested by the Defendant, not this Court.

The Court is satisfied that the Plaintiff has met its burden of showing that there is no agreement to arbitrate because it has shown that the employee is not a covered Public Employee such that this dispute qualifies for arbitration under the agreement between Plaintiff and Defendant.

The Motion to Stay Arbitration proceedings between Plaintiff and Defendant with respect to this claim is granted. It is ORDERED that any arbitration proceedings that have been commenced or are threatened to be commenced with respect to this claim are hereby stayed.

February 23, 2010


Kevin M. Cuddy
Justice, Superior Court

Attest

Clerk of Courts

HANCOCK COUNTY - PLAINTIFF

SUPERIOR COURT

HANCOCK, ss.

Docket No ELLSC-CV-2009-00067

Attorney for: HANCOCK COUNTY
TIMOTHY A PEASE - RETAINED 11/09/2009
RUDMAN & WINCHELL
84 HARLOW ST
PO BOX 1401
BANGOR ME 04402-1401

DOCKET RECORD

Attorney for: HANCOCK COUNTY
DEBRA REECE - RETAINED 01/12/2010
RUDMAN & WINCHELL
84 HARLOW ST
PO BOX 1401
BANGOR ME 04402-1401

vs
TEAMSTERS UNION LOCAL 340 - DEFENDANT

Attorney for: TEAMSTERS UNION LOCAL 340
HOWARD REBEN - RETAINED 11/25/2009
REBEN, BENJAMIN & MARCH
97 INDIA STREET
PO BOX 7060
PORTLAND ME 04112-7060

Attorney for: TEAMSTERS UNION LOCAL 340
ADRIENNE COHEN HANSEN - RETAINED 01/08/2010
REBEN, BENJAMIN & MARCH
97 INDIA STREET
PO BOX 7060
PORTLAND ME 04112-7060

Filing Document: COMPLAINT
Filing Date: 11/09/2009

Minor Case Type: OTHER EQUITABLE RELIEF

Docket Events:

11/12/2009 FILING DOCUMENT - COMPLAINT FILED ON 11/09/2009

A TRUE COPY

Attest

Cathy L. Harding
Clerk of Courts

11/12/2009 Party(s): HANCOCK COUNTY
ATTORNEY - RETAINED ENTERED ON 11/09/2009
Plaintiff's Attorney: TIMOTHY A PEASE

11/12/2009 Party(s): HANCOCK COUNTY
MOTION - MOTION STAY OF PROCEEDINGS FILED ON 11/09/2009
TO STAY ARBITRATION, W/AFFIDAVIT OF CYNTHIA A. DEPRENGER

11/12/2009 CERTIFY/NOTIFICATION - CASE FILE NOTICE SENT ON 11/12/2009

11/23/2009 Party(s): HANCOCK COUNTY
SUMMONS/SERVICE - PROOF OF SERVICE SERVED ON 11/16/2009

ON TEAMSTERS'

UNION....