

Vermont Labor Relations Board

LEONORE McINTOSH	}	
	}	
- and -	}	DOCKET #78-7R
	}	
BOARD OF DIRECTORS OF LELAND	}	
AND GRAY UNION HIGH SCHOOL	}	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above entitled matter came before the Board upon charges of the commission of certain unfair labor practices filed 26 September 1977. These charges were transmitted to the Honorable David Morse, Superintendent of Schools by Certified Mail. Motion to Dismiss was filed 18 October 1977. A Memorandum of Law was filed in behalf of the Petitioner on 1 February 1978. Hearing was held in Room 208, Municipal Center, Brattleboro, Vermont on 3 February 1978. The matter was heard on the Motion to Dismiss and also on the merits before the Honorable William G. Kemsley, Sr. and the Honorable Robert H. Brown, Commissioners, Mr. Brown presiding. The Petitioner appeared in person and by her attorney, Philip R. Rosi, Esquire, Messrs. Kristensen, Cummings & Price. The Employer appeared by Florence Rankin, Warren Jones, both Board members, David Morse, Superintendent of Schools, Edwin Bevins, Principal, and by Kenneth V. Fisher, Jr., Esquire, Messrs. Weber, Fisher, Perra & Gibson.

The issues for the Labor Relations Board's determination were (1) Motion to Dismiss of the Employer, and (2) Whether the basic allegations of the Complainant would support the issuance of a Complaint alleging an unfair labor practice by the Employer. The Motion to Dismiss was based upon an allegation that the Complainant had not brought her complaint within six months of the alleged offense. The Board delayed deciding on this Motion to Dismiss until after hearing the evidence, since in any event evidence would have had to have been taken on the question of the Complainant's understanding of whether an unfair labor practice had been perpetrated against her, under 21 V.S.A., § 1727 (a).

FINDINGS OF FACT

Based upon the evidence and exhibits introduced at the hearing and the pleadings, the Board makes the following findings of fact:

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1. The Complainant, Leonore McIntosh, in 1965 became employed by Leland and Gray Seminary as an office worker and bookkeeper. Before that time she and her husband had operated a copperware factory which had closed down during the Korean War because of the shortage of copper for non-essential uses. She had done the office work for that business. She had been the Office Manager for Townsend Furniture. She had set up the books for Grace Cottage Hospital Inc.

2. At first Mrs. McIntosh was the only one in the Office for Leland and Gray Seminary, which was a small High School. She took care of the books. Subsequently, Leland and Gray became a Union High School and she became the Office Manager, with two and one-half people under her. The scope of her position had enlarged by reason of more state bookkeeping requirements, more statistics, more students and student related bookkeeping. The Union High School was a six year institution.

3. Mrs. McIntosh also worked with Mr. Bevins, an assistant principal and later principal, in the preparation of the budget.

4. When Mrs. McIntosh became employed by Leland and Gray, her salary was \$5600, and when her employ was terminated, her salary was \$9340, as stated in her letter to the Board, dated August 9, 1977.

5. Mrs. McIntosh had regularly requested raises of the Directors, and in 1974 the Board granted her a raise of 10%, and in 1975 another 5%. At this time the Directors were having problems with the voters about their budget, and with the teachers as to salaries. In 1976, Mrs. McIntosh reapplied for a raise, but only received, in November 1976, a cost of living raise. Mrs. McIntosh felt she could not afford to stay in her position of Office Manager at that salary. She found an opportunity to buy a part of an accounting business, Joseph Boyle Associates Inc.

6. Under date of November 12, 1976, she wrote a letter of resignation, to be effective November 29, 1976. This letter did not give any reason for the resignation.

7. Mrs. McIntosh was an efficient and able Office Manager, who performed her work well, was cooperative, and a fine person to work with.

8. The Directors did not negotiate with Mrs. McIntosh to reconsider her resignation. Her decision to become a part of Joseph Boyle Associates Inc. had become known at least to Mr. Bevins by the latter part of November, 1976.

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9. Mrs. McIntosh is a female person, neither young nor old - by appearance, and based upon the testimony in the case, a personable appearing lady of middle age.

10. Mrs. McIntosh was not asked to resign, nor was she fired.

11. After the receipt of Mrs. McIntosh's letter, Mr. Bevins, by then Principal of the School, consulted with the Chairman of the School Directors, Mr. Jones. They caused an advertisement to be placed for a replacement and decided to ask the assistance of the school's auditor, a Bernard Nixon, to interview the candidates with Mr. Bevins.

12. Mr. Bevins and Mr. Nixon interviewed the candidates for the position, with a rating system based upon the criteria of experience, education, pay wanted, ability to get along with people. The field was narrowed down to three, two men and one woman.

13. Of those three, one was Albert Hunker. He most impressed Mr. Bevins, but the pay he wanted was more than allocated for the position. Mr. Bevins revised the long term job description to change the position from Office Manager to Business Manager by requiring that the Business Manager assume some assistant principal duties, and in addition to being Office Manager, to supervise the janitors, participate more in budget discussions and control, to supervise transportation, plant repair, attend board meetings, advise as to investments, and help with vacation schedules.

14. Mr. Hunker was hired at a salary of \$11,500, starting January 3, 1977, to be increased to \$12,000 on July 1, 1977.

15. Mrs. McIntosh left her employment voluntarily and neither the Directors nor their agents had discriminated against her by reason of sex, age, or for any other reason.

CONCLUSIONS OF LAW

The allegations of the Complainant do not support a charge of an unfair labor practice against the Board of Directors of the Leland and Gray Union High School.

Since the Board has reached this conclusion, it does not pass upon the Motion To Dismiss.

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ORDER

It is ordered and adjudged that the Complaint in this cause be

DISMISSED WITH PREJUDICE.

The Chairman, John S. Burgess, took no part in this Hearing in this cause, nor in the decision rendered herein.

Dated at Brattleboro, Vermont, this 17th day of February, 1978.

VERMONT LABOR RELATIONS BOARD

By: John S. Burgess
JOHN S. BURGESS, Chairman

By: William Kemsley Sr.
WILLIAM KEMSLEY

By: Robert H. Brown
ROBERT H. BROWN

cc - Philip R. Rosi, Esq.
cc - Kenneth Fisher, Esq.