

STATE OF ALASKA
before, THE DEPARTMENT OF LABOR
LABOR RELATIONS AGENCY

INTERNATIONAL UNION OF)
OPERATING ENGINEERS LOCAL 302)
)
Complainant,)
)
and)
)
CITY OF FAIRBANKS,)
MUNICIPAL UTILITIES SYSTEM,)
Respondent.)
_____)

CASE NO. ULP 87-005

DECISION AND ORDER 87-5

The Department of Labor, Labor Relations Agency (the "Agency") convened a hearing on September 2, 1987 in Fairbanks, Alaska, to consider the unfair labor practice charge filed by the International Order of Operating Engineers Local 302 ("Local 302") concerning an announced lockout of certain employees by respondent City of Fairbanks.

Thomas E. Stuart, Jr., Chairman, and members Randy Carr and Dennis Geary were present and so constituted a quorum. Complainant Local 302 was represented by Fredric R. Dichter, Esq. and the City of Fairbanks was represented by James M. Mullen, Deputy City Attorney.

At the hearing, parties presented arguments and no evidence. The parties agreed that following subsequent briefing, the Agency would advise the parties as to what if any steps the City of Fairbanks needed to take prior to a lockout, and that, if and to the extent any steps prior to lockout were required, the Agency would consider at a subsequent hearing whether or not those steps had been taken

Based on the arguments presented, the Agency's own analysis of the issues presented, the Agency has determined that, prior to an employer conducted lockout, the City and Local 302 must have concluded mediation such that "true impasse in negotiations" has occurred. See, Alaska Comm. Colleges Fed. of teachers Local No. 2404 v. University of Alaska, 669 P.2d 1299 fn. 4 at 1304 (Alaska 1983). Proof of true impasse does not need to be determined by the Agency in advance of the lockout, nor does the City need to petition the Agency for permission to lockout. However, if a lockout occurs, and Local 302 files an unfair labor practice charge and proves that true impasse has not occurred, the Agency would be compelled to conclude that the lockout constitutes an unfair labor practice.

The parties agreed that following this finding by the Agency, additional hearings on the matter would be delayed pending further discussions/negotiations between the parties.

This written order records the determination delivered orally by the Board on September 14, 1987 to the parties.

DATED this 17th day of September, 1987.

DEPARTMENT OF LABOR/LABOR RELATIONS AGENCY

BY _____
Thomas E. Stuart, Jr.
Chairman

BY _____
J.R. "Randy" Carr, Member

BY _____
Dennis Geary, Member

[Seal Affixed and Signatures On File]

APPEAL PROCEDURES

An Agency order may be appealed through proceedings in Superior Court brought by a party in interest against the Agency and all other parties to the proceedings before the Agency, as provided in the Rules of Appellate Procedure of the State of Alaska.

An Agency order becomes effective when filed in the office of the Agency, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of International Union of Operating Engineers Local 302, Complainant and City of Fairbanks, Respondent, Case No. ULP87-005, dated and filed in the office of the Labor Relations Agency in Anchorage, Alaska, this day of September 25, 1987.

Clerk

[Signature On File]