

TOWN OF STERLING
BOARD OF SELECTMEN
September 29, 2014

Grievance 3
HEARING:

Roll Call: Selectman Cutler - Present. Selectman Kilcoyne – Present. Chairman Patacchiola – participated remotely via telephone, due to geographic distance. At 7:00 pm, Vice-Chairman Kilcoyne called the meeting to order.

The Board of Selectmen were notified, in writing, of Charles Brown's request that his Grievance 3 Hearing, pursuant to M.G.L. c.30A, Sec. 21 (a) (1), be held in PUBLIC session.

Timeline of events:

- Charles Brown was hired on July 23, 2013. Within two weeks of hire, problems arose between the Union Steward, Paul Geradi and Charles Brown due to Mr. Brown's reluctance to join the Union (Mr. Brown did eventually join the Union). By mid-winter Mr. Brown started complaining about harassment, by Paul Geradi, stating that Mr. Gerardi repeatedly (daily) moved the mirrors on Mr. Brown's truck. (Mr. Gerardi has repeatedly denied knowledge of alleged behavior)
- On Feb. 28, 2014 Mr. Brown swore at Mr. Gerardi and threatened to fight. Mr. Gerardi walked away from Mr. Brown. Documented.
- On July 16, 2014 Mr. Brown assaulted Mr. Gerardi (punched him on the mouth) while on Town property and while "on the clock". The Superintendent was immediately called to the scene where Mr. Brown admitted to hitting Mr. Gerardi. And Mr. Brown then asked MR. Tuttle if he (Mr. Brown) was "fired". Mr. Tuttle told him that he didn't know yet but that he (Mr. Brown) was suspended and to "Go Home".
- On July 21st, Mr. Tuttle sent a letter to Mr. Brown stating that Mr. Brown's employment with the Town had been terminated, as of July 18th.
- Mr. Brown notified Mr. Tuttle, and the Town, in a letter dated July 28th, that he was not offered appropriate due process protection and wished to file a grievance.
- On August 4, 2014 Mr. Tuttle sent a letter to Mr. Brown stating "In accordance with the Collective Bargaining Agreement between the Town of Sterling and the Teamsters, Local 170, a hearing will be scheduled with the DPW Board to review this matter and to decide whether "just cause" exists to discipline you, up to and including termination, of your employment. Effective immediately, you are hereby placed on administrative leave, retroactive to July 18, 2014."
- On August 19, 2014 the DPW Board met, regarding Mr. Brown, where after hearing Mr. Brown's testimony, requested that Mr. Tuttle make an effort to streamline Mr. Brown's reinstatement.
- Mr. Tuttle, under advice from the Human Resource Director and the Town Counsel, created a "Last Chance Agreement." On August 28, 2014 the DPW board offered the Last Chance Agreement to Mr. Brown and gave him a week to review and sign the agreement.
- On September 4, 2014 the DPW Board met with Mr. Brown, who upon advice from his attorney, refused to sign the Last Chance Agreement because it was "vague" and there was no time set on the probationary period. When Mr. Brown refused to sign the agreement, the DPW Board voted to terminate his employment.
- Mr. Brown filed a grievance and sought representation from the Union, on September 10, 2014. The Union Contract states that management may only "suspend demote or discharge for just cause." The union representative, Ed Pelequin, stated that the Union is "the Management". Therefore, the DPW Board, alone, does not have the authority to terminate.

Mr. Brown stated that he had gone many times to the Superintendent with complaints of harassment by Mr. Gerardi. Mr. Tuttle admits that he was aware of problems between Brown and Gerardi and employee written accounts corroborate his knowledge. Mr. Brown had also sought help from Sterling's Human Resource Administrator, Mr. Jacobs. However, Mr. Jacobs did not retain records of this complaint and professes to have no recollection of the meeting. Mr. Brown stated "No one stood up for me, so I stood up for myself."

Mr. Brown stated that his job is his livelihood and he does want his job back provided that his attorney and the Union agree to the verbiage in the "Last Chance Agreement".

Attorney Brian Maser advised the Board of Selectmen that their Board does not have the authority to hire and fire for the Department of Public Works. Therefore, Attorney Maser, advised the Board that they may remand the issue back to the DPW Board.

VOTE: Selectman Cutler moved to remand this issue back to the DPW Board with instructions to reinstate Charles Brown, by offering the last chance agreement, with changes that would define the term "detrimental" and by setting the duration of the probationary period and to extend the arbitration filing deadline to 14 days after the DPW Board's action on the remand. Vice-Chairman Kilcoyne 2nd. Selectman Cutler – Aye. Selectman Kilcoyne – Aye Chairman Patacchiola – Aye. Motion carried.

The following people provided testimony at this hearing:

- Superintendent of the DPW, Bill Tuttle
- Charles Brown
- Don Harding, Member DPW Board
- Don Jacobs, Human Resource Administrator for Town of Sterling
- Ed Pelequin, Union 170 Representative
- Attorney, Brian Maser, Sterling Town Counsel

VOTE: Selectman Cutler moved to adjourn at 8:27pm. Chairman Patacchiola 2nd. Selectman Cutler- Aye Selectman Kilcoyne - Aye Chairman Patacchiola – Aye. Motion Carried