

STATE OF MAINE  
HANCOCK, ss

SUPERIOR COURT  
DOCKET NO. CV-09-65  
KMC - HAN - 2/23/2010

HANCOCK COUNTY  
Plaintiff

V.

TEAMSTERS UNION LOCAL 34  
o/b/o Freda Moore  
Defendant

#### DECISION AND ORDER

Defendant Teamsters brought a claim regarding overtime payment due to Freda Moore 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 Freda Moore 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/expanded to include a part time employee.

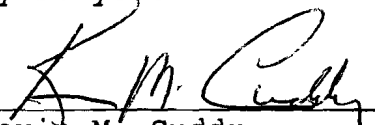
The Court agrees that the contract between Plaintiff and Defendant that provides for arbitration (See Article 46), is predicated on and draws its meaning from the Maine Public Employees Labor Relations Law. That statute provides in short sentences that a part time employee is not a Public Employee, as 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

A TRUE COPY

Attest   
Clerk of Courts

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SUPERIOR COURT  
HANCOCK, ss.  
Docket No ELLSC-CV-2009-00065

**DOCKET RECORD**

vs  
TEAMSTERS UNION LOCAL 340 - DEFENDANT

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Filing Document: COMPLAINT  
Filing Date: 11/03/2009

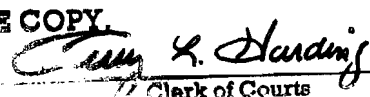
Minor Case Type: OTHER EQUITABLE RELIEF

**Docket Events:**

11/04/2009 FILING DOCUMENT - COMPLAINT FILED ON 11/03/2009

**TRUE COPY**

11/04/2009 Party(s): HANCOCK COUNTY  
ATTORNEY - RETAINED ENTERED ON 11/03/2009  
Plaintiff's Attorney: TIMOTHY A PEASE

Attest   
Clerk of Courts

11/04/2009 Party(s): HANCOCK COUNTY  
MOTION - MOTION STAY OF PROCEEDINGS FILED WITH AFFIDAVIT ON 11/03/2009  
AND EXHIBITS ATTACHED..AND AFFIDAVIT OF CYNTHIA DEPRINGER...

11/04/2009 CERTIFY/NOTIFICATION - CASE FILE NOTICE SENT ON 11/04/2009

11/12/2009 Party(s): TEAMSTERS UNION LOCAL 340  
SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 11/03/2009

11/12/2009 Party(s): TEAMSTERS UNION LOCAL 340  
SUMMONS/SERVICE - CIVIL SUMMONS FILED ON 11/09/2009

11/30/2009 Party(s): TEAMSTERS UNION LOCAL 340  
MOTION - MOTION TO CONTINUE FILED ON 11/20/2009  
WITH REQUEST TO STAY ARBITRATION TO DECEMBER 1, 2009...

12/01/2009 Party(s): TEAMSTERS UNION LOCAL 340