

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-12-01

SERVICE EMPLOYEES INTERNATIONAL)
UNION LOCAL 503, OREGON PUBLIC)
EMPLOYEES UNION,)

Complainant,)

v)

STATE OF OREGON, DEPARTMENT)
OF ADMINISTRATIVE SERVICES,)

Respondent.)

FINDINGS AND ORDER
ON COMPLAINANT'S PETITION
FOR ATTORNEY FEES
ON APPEAL

This Board issued an Order in this case on June 21, 2001. 19 PECBR 325 (2001). The State of Oregon, Department of Administrative Services (State) filed a petition for judicial review. The Court of Appeals affirmed the Order on September 25, 2002. 183 Or App 594 (2002). An appellate judgment was issued on January 8, 2003. Service Employees International Union Local 503, Oregon Public Employees Union (Union) filed a petition for attorney fees on appeal on October 14, 2002. Pursuant to OAR 115-35-057, this Board makes the following findings:

1. The appellate judgment names the Union as the prevailing party.
2. The Union's petition was timely. The State filed no objections.¹

¹The Union filed its petition before the appellate judgment was issued. We have accepted such premature filings as long as the petition complies with the remainder of the rule and the other party's position is not prejudiced. Those conditions are satisfied here.

3. The Union requests a fee award of \$3,500, the maximum allowed under our rules in most circumstances. The request is based on 39 hours of legal services valued at \$115 an hour (\$4,485).

4. The number of hours claimed exceeds the average in similar cases. The hourly rate is reasonable.

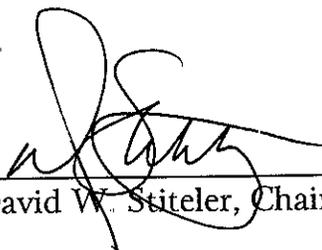
5. The issue in the case was whether the State violated ORS 243 672(1)(e) by refusing to bargain over health insurance benefits for temporary employees. A majority of this Board found a violation. Under the circumstances, an appeal was predictable. The court likewise issued a majority decision. On reviewing both our Order and the decision of the court, we find nothing that supports either a greater or lesser than average award.

Having considered the policies and purposes of the Public Employee Collective Bargaining Act, the appropriate charges for the services rendered, and our awards in similar cases, this Board will award the Union attorney fees in the amount of \$1,500.

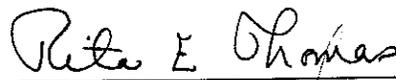
ORDER

The State will remit to the Union \$1,500 within 30 days of the date of this Order.

DATED this 10th day of February 2003.



David W. Stiteler, Chair



Rita E. Thomas, Board Member



Kathryn T. Whalen, Board Member

This Order may be appealed pursuant to ORS 183.482.