

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case Nos. UP-23/25-03

PORTLAND SCHOOL DISTRICT NO. 1, )

Complainant, )

v. )

PORTLAND ASSOCIATION OF TEACHERS, )

Respondent, )

Case No. UP-23-03;<sup>1</sup> )

---

FINDINGS AND ORDER  
ON COMPLAINANT'S PETITION  
FOR REPRESENTATION COSTS

PORTLAND ASSOCIATION OF TEACHERS, )

Complainant, )

v. )

PORTLAND SCHOOL DISTRICT NO. 1, )

Respondent, )

Case No. UP-25-03. )

---

---

<sup>1</sup>This Board dismissed this case.

This Board issued an Order on July 12, 2004. 20 PECBR 701. Complainant file a petition for representation costs on July 28, 2004. Respondent filed objections to the petition on August 16, 2004. Pursuant to OAR 115-35-055, this Board makes the following findings:

1. Complainant is the prevailing party.
2. Complainant's petition for representation costs is timely.
3. Complainant requests an award of \$3500, which is the maximum allowed under Board rules under most circumstances. The amount request is based on legal fees of \$14,036.50 billed at \$135 and \$130 an hour for 107.4 hours of legal services.
4. This case involved two days of hearing before an administrative law judge, post-hearing briefs, memoranda in aid of oral argument, and oral argument before this Board. The hourly rates claimed are reasonable, but the number of hours is above the average for similar cases.
5. The parties' rather intense and difficult contract negotiations resulted in an agreement. However, because neither party wrote the tentative agreement that both parties signed, negotiations began almost immediately after reaching the tentative agreement, to prepare a contract both parties could agree upon. With the exception of one issue, the pay for entry level teachers, the parties were in agreement. This Board concluded that the Respondent had violated the Public Employee Collective Bargaining Act (PECBA) by its interpretation and then implementation of the tentative agreement, and its refusal to reduce to writing and sign the contract reached through collective bargaining. Respondent failed to convince this Board, by a preponderance of the evidence that its interpretation of the tentative agreement was correct. A request by the Complainant for a civil penalty was denied. This was a straight forward dispute between parties about the meaning and intent of tentative agreement language which neither party wrote. The facts of this case favor less than an average award.

6. Having considered the policies and purposes of the PECBA, our awards in similar cases, the facts of this case, and the appropriate fees and hours for this service, this Board awards Complainant representation costs of \$585.

ORDER

Respondent shall remit \$585 to Complainant within 30 days of the date of this Order.

DATED this 28 day of January, 2005.

---

\*Paul B. Gamson, Chair

  
James W. Kasameyer, Board Member

  
Rita E. Thomas, Board Member

\*Chair Gamson recused himself from this case.

This Order may be appealed pursuant to ORS 183.482.

