

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 630-010

DIVISION “G”

JEFFERSON PARISH FIREFIGHTERS ASSOCIATION OF LOUISIANA
LOCAL 1374 AND ITS PRESIDENT ROBERT BURKETT

v.

THE PARISH OF JEFFERSON AND THE JEFFERSON PARISH
EAST BANK CONSOLIDATED FIRE DEPARTMENT

FILED: _____

DEPUTY CLERK

PETITION FOR DECLARATORY RELIEF AND
SUPPLEMENTAL INJUNCTIVE RELIEF

The petitioners respectfully state as follows:

1.

The Jefferson Parish Firefighters Association of Louisiana Local 1374 (“Local 1374”) is an unincorporated association domiciled in the Parish of Jefferson. It sues here, through its president and chief executive officer Robert Burkett, a domiciliary of the Parish of Jefferson, on behalf of its members.

2.

The Parish of Jefferson (“Parish”) is a political subdivision of the State of Louisiana and is a corporate body that can sue and be sued.

3.

The Parish is the governing authority over and as such administers the East Bank Consolidated Fire Department (“Fire Department”), which is also a political subdivision of the State of Louisiana, a special fire service district, which can sue and be sued.

II. STANDING

4.

Local 1374 and its president have standing to sue on behalf of its Local 1374's members, who are now employed or have been employed by the Fire Department in the three years predating the filing of this action. Local 1374 is the designated bargaining agent for its members with respect to their wages, hours and working conditions.

5.

Indeed, Local 1374 is so designated in the so-called Red Book Ordinance adopted by the Council of the Parish of Jefferson and codified by Ordinance No. 18226 (March 13, 1991), as amended by Ordinance No. 20899 (February 23, 2000), and has fulfilled this representative function at all times since its adoption.

6.

Local 1374 therefore has a keen interest in enforcing the Red Book Ordinance and all laws affecting the fire service in the Parish to the extent it benefits its membership as well as its legal standing as collective bargaining agent.

III. FACTS

7.

Rule V (Pay Plan), Section 2 of the Red Book Ordinance mandates variants of 5% and 2.5% pay increases to members of Local 1374 employed in the Fire Department based on years of service and hire date.

8.

The Parish, acting through its Council and executed by its President, resolved to withhold such pay increases for fiscal year 2006.

9.

While the Red Book Ordinance may be read to permit the withholding of mandated pay increases due to “funding” issues, the fact is that the Fire Department is more than adequately funded and can readily implement the mandated increases within its budget.

10.

The Red Book Ordinance has been effectively but unlawfully amended by this action. Rule III, Section 2 of the Red Book Ordinance mandates that any “proposed amendment” to the Red Book Ordinance be duly noticed to Local 1374, which has 45 days to respond. In the absence of any mutual understanding reached between Local 1374 and the Parish and the Fire Department, the Superintendent of the Fire Department may submit the proposed amendment to the Council. This was not done, and consequently the required public hearing on any proposed amendment was not held.

11.

Further, the Red Book Ordinance at Rule V, Section 8, provides that Firemen's State Supplemental Pay received by members of Local 1374, as authorized by the Firemen's Supplemental Pay Law, La. R.S. 33:2001, *et seq.*, is not to be included in the base pay of Local 1374 members in the calculation of any pay increases received by members.

12.

Finally, the Red Book at Rule X, Section 2.4, authorizes Local 1374 members to "sell" unused annual leave at established times. The defendants have refused to implement this benefit of employment for fiscal year 2006.

IV. CAUSES OF ACTION

13.

The pay increases due members of Local 1374 are mandatory. Local 1374 seeks a declaration pursuant to La. C.C.P. art. 1871, *et seq.*, as to the enforceability of the Red Book and the obligations of the defendants in this regard. Following issuance of a declaratory judgment in favor of Local 1374 and its membership, it is justly entitled to and respectfully seeks supplemental relief pursuant to La. C.C.P. art. 1878 by way of a mandatory injunction compelling retroactive and prospective payment of the mandated pay increases to eligible Local 1374 members, with interest.

14.

Similarly, the petitioners are entitled to a declaratory judgment establishing the obligation of the defendants to include State Supplemental Pay in the computation of all pay increases received or to be received by Local 1374 members, as mandated by R.S. 33:2004 D, as well as a judgment declaring Rule V, Section 8 of the Red Book Ordinance unlawful and unenforceable. They respectfully pray for a mandatory injunction as supplemental relief to the declaratory judgment compelling retroactive (within the applicable prescriptive period) and prospective re-calculation of base pay and pay increases received or to be received by Local 1374 members.

15.

The petitioners finally seek a declaratory judgment and supplemental relief by way of a mandatory injunction with respect to the annual leave buyback program established by the Red Book.

WHEREFORE, petitioners pray that their petition be deemed good and sufficient and that the declaratory relief and supplemental relief in support thereof be granted after notice and hearing had, and that the Court grant all other legal and equitable relief it may deem just and necessary.

Respectfully submitted,

s/ Louis L. Robein, Jr.
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