

E.D. NO. 61

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Public Employer,

-and-

Docket No. RO-854

LICENSED PRACTICAL NURSE ASSOCIATION  
OF NEW JERSEY, INC.,

Petitioner.

SYNOPSIS

The Executive Director dismisses a petition as untimely pursuant to the Commission's contract bar rule. The existing four-year agreement is viewed as a three-year contract for contract bar purposes, but the petition was filed prior to the open period computed with reference to the expiration of the third year of the agreement.

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DECISION

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission on July 10, 1974 by Licensed Practical Nurse Association of New Jersey, Inc. (the "Association") with respect to a unit of approximately 10 licensed practical nurses employed by the City of Newark (the "City"). The Petition was perfected by the filing of an adequate showing of interest on July 23, 1974. The undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts. On the basis of the administrative investigation the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing to the undersigned that no substantial and material factual issue exists which may more appropriately be resolved after a hearing. Rule Section 19:11-1.12(c).

2. In response to the Petition, the City has submitted a copy of an executed agreement between it and Essex Council No. 1,

New Jersey Civil Service Association ("Council 1") covering, among others, the employees petitioned for by the Association, and having a term of January 1, 1972 to and including December 31, 1973. The City has also submitted a copy of an executed "Amendment to Agreement", dated December 17, 1973, which, among other things, deletes and replaces the duration clause of the original agreement with the following: "This Agreement shall be in full force and effect as of January 1, 1972 and shall be in effect to and including December 31, 1975,..."

The undersigned views the existing amended agreement as having a term of four years.<sup>1/</sup> Under such circumstances, the agreement is deemed to have a term of three years for purposes of the contract bar rule. Rule Section 19:11-1.15(d). Thus, pursuant to Rule Section 19:11-1.15(c)(2) the open period for timely filing is "not less than 90 days and not more than 120 days "before December 31, 1974. The instant Petition was filed and perfected prior to the open period, and is accordingly dismissed as untimely.

BY ORDER OF THE EXECUTIVE DIRECTOR

  
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Jeffrey B. Tener  
Acting Executive Director

DATED: Trenton, New Jersey  
January 8, 1975

1/ See In re City of Newark (Local #6, International Federation of Health Professionals), E.D. No. 56 (December 6, 1974).