

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

HOBOKEN HOUSING AUTHORITY,

Public Employer,

-and-

PATRICK LANNI,

Docket No. RD-77-4

Petitioner,

-and-

TEAMSTERS LOCAL 97 OF NEW JERSEY,
I.B.T.,

Employee Representative-Intervenor.

SYNOPSIS

The Director of Representation dismisses a decertification petition filed five months after the employee representative was certified by the Commission. The Commission's rules preclude the filing of decertification petitions for a period of twelve months after its certification of an exclusive negotiations representative.

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Appearances:

For the Public Employer, Joseph Caliguire,
Executive Director

For the Petitioner, Patrick Lanni

For the Employee Representative-Intervenor,
Andrew Trause, Director

DECISION

A Petition for Decertification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") on June 16, 1977, amended June 17, 1977, by Patrick Lanni (the "Petitioner"). The Petition was accompanied by an adequate demonstration of employee support, as mandated pursuant to N.J.A.C. 19:11-1.3(a)(3). Petitioner seeks the decertification of Teamsters Local 97 of New Jersey, I.B.T. ("Local 97") as the exclusive representative of employees in a unit consisting of all blue collar employees who are employed by the Hoboken Housing Authority (the "Authority"). Pursuant to Commission procedures, if a majority of unit

employees voting in a secret ballot election decertify an existing negotiations representative, the employees would no longer continue to have a collective negotiations representative.

Pursuant to an administrative investigation into matters and allegations in the instant petition, the undersigned finds as follows:

1. The Hoboken Housing Authority is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1.1 et seq. (the "Act"), and the employer of the employees described herein, and is subject to the provisions of the Act.

2. Teamsters Local 97 of New Jersey, I.B.T. is an employee representative within the meaning of the Act and is subject to its provisions.

3. A Petition for Decertification of Public Employee Representative having been filed before the Commission, and there being a question as to the timeliness of the Petition, the matter is appropriately before the undersigned for determination.

4. On January 28, 1977, approximately five months prior to the filing of the instant petition, Local 97 was certified by the Commission as the exclusive representative of employees in a negotiations unit described as including all blue collar employees who are employed by the Hoboken Housing Authority. The Commission's certification was issued subsequent to a secret ballot election, directed by the undersigned, In re Hoboken Housing Authority, D.R. No. 77-6, 2 NJPER 364 (1976), in which Local 97 received a majority of the ballots cast by employees voting in the election.^{1/}

^{1/} N.J.S.A. 34:13A-5.3 provides for the designation of exclusive representatives by "the majority of the employees voting in an election conducted by the Commission...."

The Commission's Rules provide a bar to the filing of petitions for decertification of public employee representative within 12 months after the issuance of a Commission certification of representative.

Specifically, N.J.A.C. 19:11-2.8(b) (formerly, N.J.A.C. 19:11-1.15(b))^{2/} provides:

"Where there is a certified or recognized representative, a petition will not be considered as timely filed if during the preceding 12 months an employee organization has been certified by the Commission as the exclusive representative of employees in an appropriate unit or an employee organization has been granted recognition by a public employer pursuant to N.J.A.C. 19:11-3.1 (Recognition as exclusive representative).

On July 8, 1977, Local 97 advised the undersigned that it was asserting the certification bar established by the Commission in the aforementioned rule as a bar to the consideration of the instant Petition.

5. On August 1, 1977, the undersigned advised the Petitioner of the Commission's January 1977 certification of Local 97 as exclusive representative, of the Commission's certification bar rule, and of his determination that under the rule the instant Petition was not timely filed. Petitioner was requested to withdraw the petition without prejudice pursuant to N.J.A.C. 19:11-2.3 (formerly, N.J.A.C. 19:11-1.9), and was advised that in the absence of the filing of a request for withdrawal by August 11, 1977, the undersigned intended to dismiss the Petition. The Petitioner has not

^{2/} N.J.A.C. 19:11-2.8(b), adopted July 15, 1977, and effective August 2, 1977, incorporates certain language changes to the pre-existing rule but does not change the timeliness requirement. N.J.A.C. 19:11-1.15(b), in effect when the instant petition was filed, provided:


"Where there is a certified or recognized representative, a petition will not be considered as timely filed if during the preceding 12 months an employee organization has been certified by the Executive Director or the Commission as the majority representative of employees in an appropriate unit or an employee organization has been granted recognition by a public employer pursuant to Sec. 14 of this Subchapter."

responded to the undersigned either by executing a request for withdrawal or by disputing the existence of a certification bar.^{3/}

On the basis of the foregoing, the undersigned finds that since the Commission had on January 28, 1977 certified Local 97 as the exclusive representative of the employees involved herein, and that since the instant Petition was filed on June 16, 1977, amended June 17, 1977, the Petition has not been timely filed under the Commission's rules.

Accordingly, for the aforementioned reasons, the undersigned dismisses the instant Petition.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director
of Representation

DATED: August 25, 1977
Trenton, New Jersey

^{3/} On August 5, 1977, the undersigned received a statement from the Authority. The Authority's statement, however, does not dispute the existence of a certification bar.