

D.R. NO. 85-11

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

In the Matter of

PASSAIC COUNTY, PREAKNESS HOSPITAL,

Public Employer,

-and-

LOCAL 711, INTERNATIONAL FEDERATION  
OF LABOR UNIONS,

DOCKET NO. RO-85-23

Petitioner,

-and-

LOCAL 2313, COUNCIL 52, A.F.S.C.M.E.,

Intervenor.

SYNOPSIS

The Commission Designee, denies a request by incumbent Local 2313, Council 52, AFSCME that unfair practice charges block the processing of a Petition for Certification of Public Employee Representative filed by Local 711, International Federation of Labor Unions, and directs that a mail ballot election be conducted in a unit of non-professional supervisory employees of Passaic County, Preakness Hospital. The request for blocking effect was denied due to the incumbent's failure to submit evidence showing a nexus between the alleged unfair practice conduct and the question concerning representation raised by Local 711's petition.

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Appearances:

For the Public Employer  
Nicola DiDonna, Administrator

For the Petitioner  
Schneider, Cohen & Solomon  
(Bruce D. Leder, of counsel)

For the Intervenor  
Oxfeld, Cohen & Blunda  
(Sanford R. Oxfeld, of counsel)

DECISION AND DIRECTION OF ELECTION

On September 6, 1984, Local 711, International Federation of Labor Unions ("Local 711") filed a Petition for Certification of Public Employee Representative ("Petition"), supported by an adequate showing of interest, with the Public Employment Relations Commission ("Commission"). Local 711 seeks to represent a unit of all non-professional supervisory employees of Passaic County at Preakness Hospital ("County"). Local 2313, Council 52, AFSCME ("Council 52") is the current majority representative of the petitioned-for employee unit. Council 52 has intervened herein on the basis of its current collective negotiations agreement with the County.

In correspondence to the parties dated September 10, 1984, the Administrator of Unfair Practice and Representation requested that the parties set forth their statements of position regarding the above petition. Council 52 never responded to that correspondence. On October 23, 1984, Council 52 requested that unfair practice charges, which were filed prior to the filing of Local 711's representation petition (Docket Nos. CO-84-336 and CO-84-352), block the processing of the petition. Thereupon, in accordance with the Commission's policy concerning requests for blocking effect, the Chief Assistant wrote to Council 52 on October 23, 1984, requesting that it submit a statement of position and documentary and other evidence in support of the claim that the allegations complained of in the charge have a nexus to the question concerning representation raised by this petition. On October 31, 1984, Council 52 submitted a written statement which reiterated the allegations of the unfair practice charge (Docket No. CO-84-352). In that charge, charging party alleges in part, that the County discriminated against Council 52's local president by denying him access to facilities that were made available to a business agent of another union (Local 711). No documentary or other evidence was submitted in support of these contentions. No statement of position was submitted containing arguments to support Council 52's contention that an election should be blocked.

Under the Commission's blocking charge policy, an election in a representation proceeding may be delayed pending the consideration of unfair practice allegations involving parties to the election proceeding. See, In re Long Branch Bd. of Ed., D.R. No. 84-16, 8 NJPER

613 (¶ 13292 1982); In re State of N.J., D.R. No. 81-20, 7 NJPER 41 (¶ 12019 1980) aff'd P.E.R.C. No. 81-94, 7 NJPER 105 (¶ 12044 1981); In re City of Newark, D.R. No. 78-43, 4 NJPER 202 (¶ 4102 1978); In re Matawan Reg. Sch. Dist. Bd. of Ed., D.R. NO. 78-11, 4 NJPER 37 (¶ 4019 1977). Unfair Practice charges have blocked the conduct of elections where a party to an election has filed unfair practice charges alleging the most egregious conduct and has proffered sufficient evidence to establish the need for the litigation and resolution of such unfair practices prior to the election. A Charging Party seeking to block the conduct of an election must show a nexus between the alleged unfair practice conduct and the question concerning representation raised by the representation petition. There must be a demonstration that the alleged unfair practice conduct, left uncorrected, will prevent the conduct of a free and fair election.

Accordingly, I have concluded that Council 52's request that its unfair practice charge be given blocking effect must be denied. Council 52 has failed to proffer any material in support of the position that the allegations complained of in the unfair practice charge will prevent the conduct of a free and fair election. In the absence of such material, I must decline to exercise the discretion to block an election. See In re Village of Ridgewood, D.R. No. 81-17, 6 NJPER 605 (¶ 11300 1980).

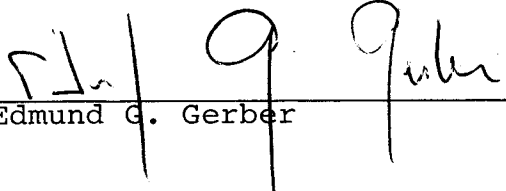
Pursuant to N.J.A.C. 19:11-2.6(b)(3), I direct that a mail ballot election be conducted in the unit petitioned for herein. Said unit, which appears to be a prima facie appropriate unit, is described as follows: Included: all non-professional supervisory positions by appointment or contract of employment in the service of the County of

Passaic at Preakness Hospital; Excluded: all elected officials, heads and deputy heads of departments, members of boards and commissions, blue collar employees, managerial executives and confidential employees. Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date of this decision, including the employees who did not work during that period because they were ill, or on vacation, or temporarily laid off (including those in military service).

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by Local 711, IFLU; Local 2313, Council 52, AFSCME, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF COMMISSION DESIGNEE

  
Edmund G. Gerber

DATED: December 21, 1984  
Trenton, New Jersey