

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

In the Matter of

ATLANTIC CITY HOUSING AUTHORITY,
Public Employer,

-and-

SECURITY OFFICER SOCIETY,
Petitioner,

DOCKET NO. RO-81-221

-and-

NATIONAL UNION OF SECURITY OFFICERS,
LOCAL 7,
Intervenor.

ATLANTIC CITY HOUSING AUTHORITY,
Public Employer-Petitioner,

-and-

ATLANTIC CITY HOUSING AUTHORITY AND
URBAN REDEVELOPMENT AGENCY,
Intervenor,

DOCKET NO. RE-81-7

-and-

NATIONAL UNION OF SECURITY OFFICERS,
LOCAL 7,
Intervenor.

SYNOPSIS

The Director of Representation, finding representation petitions to be timely filed, and in the absence of further issues, directs an election among security guards. Although the incumbent claimed that its contract was extended for an additional three years, the Commission's timeliness rules permit a contract to bar the filing of a petition for only up to three initial years of an agreement.

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Appearances:

For the Public Employer
Oscar Harris, Jr.

For the Society
Madeline Brookins

For Local 7
LaCheen, Doner & Lacheen
(Saul Doner of counsel)

DECISION AND DIRECTION OF ELECTION

On April 10, 1981, a timely Petition for Certification of Public Employee Representative, accompanied by an adequate showing of interest, was filed by the Security Officer Society (the "Society") seeking to represent security guards employed by the Atlantic City Housing Authority and Urban Redevelopment Agency (the "Authority").

On April 13, 1981 the Authority filed a certification petition ("RE" petition) asserting that the employer had a good faith doubt as to the continued majority status of the National Union of Security Officers, Local 7 ("Local 7"), as the majority representative of the security guards, and seeking an election to determine whether the guards wished to be represented by Local 7, the Society, or neither.

The National Union of Security Officers, Local 7 is the certified majority representative of the employees involved and has submitted a recently expired agreement with the Employer covering the employees involved. On the basis thereof, Local 7 has been granted intervenor status in this matter. The undersigned has caused an administrative investigation to be conducted into the matters involved in the Petition in order to determine the facts.

On the basis of the administrative investigation, the undersigned finds as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appro-

priately be resolved after an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Atlantic City Housing Authority and Urban Re-development Agency is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., (the "Act"), is the employer of the employees who are the subject of the Petition, and is subject to the provisions of the Act.

3. The Security Officer Society and the National Union of Security Officers, Local 7 are employee representatives within the meaning of the Act and subject to its provisions.

4. On April 10, 1981, Petitioner filed a Petition for Certification of Public Employee Representative, accompanied by a valid showing of interest, seeking to represent the security guards employed by the Authority. Local 7 is currently the exclusive representative of a unit consisting of these employees. The Authority has stated by the filing of an "RE" petition on April 13, 1981 that it has a good faith doubt as to the continued majority status of Local 7. The Authority's petition is supported by a documentary submission which demonstrates objective considerations that it has some reasonable grounds for believing that the incumbent representative has lost its majority status.

5. The Society and the Employer agree to the conduct of a secret ballot election among employees. Local 7 has not consented

to an election. Accordingly, petitions have been filed, a dispute exists and the matter is properly before the undersigned for determination.

6. Local 7 argues that the contract with the employer covering the petitioned-for employees should act as a bar to an election. The contract between the parties covered the period from April 1, 1978 to March 31, 1981. The contract also contains a provision that if neither party terminates the contract sixty days or more prior to March 31, 1981, the Agreement will be extended for a second three-year term commencing April 1, 1981 and ending March 31, 1984. N.J.A.C. 19:11-2.8(a) provides that:

"For the purposes of determining a timely filing, an agreement for a term in excess of three years will be treated as a three-year agreement; an agreement for an indefinite term shall be treated as a one-year agreement measured from its effective date."

A three year contract between the parties expired on March 31, 1981. In accordance with N.J.A.C. 19:11-2.8(a) the petitions filed on April 10, 1981 and April 13, 1981 are timely-filed petitions.

7. Local 7 filed an Unfair Practice Charge (Docket No. CO-81-329) on April 27, 1981 against the Authority alleging that the Authority did not process grievances in accordance with the collective negotiations agreement. At a conference conducted on April 28, 1981 by a Commission staff agent, Local 7 was advised that if it desired that its charge be accorded blocking effect on the pending representation matter, it must submit documentary

evidence and a statement of position in support of such request. Local 7 advised the staff agent that it would advise the Commission within two weeks following the conference held on April 28, 1981 whether or not it would request that the Charge should "block" an election or whether it would consent to a secret ballot election. Local 7 has not submitted a position. See In re Village of Ridgewood, D.R. No. 81-17, 6 NJPER 605 (P 11300 1980).

Accordingly, the undersigned finds that the appropriate unit is: all security guards employed by the Atlantic City Housing Authority and Urban Redevelopment Agency, but excluding managerial executives, confidential and craft employees, professional employees, and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned, with the Society, and with

Local 7, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the election. A copy of the eligibility list shall be simultaneously filed with the Society and Local 7 with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Society, Local 7, 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 THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: July 8, 1981
Trenton, New Jersey