

L.D. No. 88-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

CITY OF ATLANTIC CITY,

Public Employer,

-AND-

Docket No. CU-L-88-47

R.W.D.S.U., LOCAL 29, AFL-CIO,

Petitioner.

Appearances:

For the Public Employer,
Murray and Murray
(Karen A. Murray, Esq.)

For the Petitioner,
Reitman, Parsonnet, Maisel & Duggan
(Jesse H. Strauss, Esq.)

DECISION

The City of Atlantic City ("City") and the Local 29, R.W.D.S.U. ("Local 29") have agreed to submit this dispute to the Public Employment Relations Commission's ("Commission") Litigation Alternative Program ("L.A.P."). In this procedure, the parties describe and document the nature of their dispute to a Commission designee. Failing a direct resolution of the issue by the parties, the Commission designee issues a recommendation designed to resolve the dispute without prejudice to the parties' legal positions.

On April 12, 1987, I conducted an informal hearing with the parties concerning this dispute. The following representatives were present: Karen Murray, Esq. and Ralph Head, Personnel Director for the City and Jesse Strauss, Esq. and Paul Freda for Local 29. The parties agreed that my determination would be final and binding.

The issue in this matter concerns the unit placement of the following titles: payroll supervisor, director of planning, director of welfare, director of community development block grants, affirmative action officer, the assistant director of community development block grants and the violations clerk.

The City asserts that none of these positions may be included in the supervisors bargaining unit represented by Local 29 because (a) Local 29 specifically agreed to exclude each of the positions from the unit; (b) all of the positions are confidential, or managerial-executive positions and (c) inclusion of certain positions in the unit would present a conflict of interest with other unit members.

Local 29 asserts that all of these positions are supervisors within the meaning of the Act, N.J.S.A. 34:13A-5.3, and are not confidential or managerial positions. It also asserts that none of these positions present a conflict with other supervisors in the unit.

The recognition clause of the parties agreement from January 1, 1986 through December 31, 1988 provides:

A. The City recognizes the Association associated R.W.D.S.U.-AFL-CIO as the exclusive

negotiating agent and representative for all supervisors included in the bargaining unit in accordance with the certification by the Public Employment Relations Commission (P.E.R.C.), Docket No. RO-8L-1-117¹/

The unit certified by the Commission on February 19, 1982 in Docket No. RO-82-117 is:

All supervisory employees including craft and professional supervisors employed by the City of Atlantic City excluding non-supervisory employees, police employees, confidential employees, fire employees and managerial executives.

The City submitted a written statement of position on April 12, 1988 and at the informal hearing both parties presented evidence and argued orally before me. Based on the entire record presented in this matter, I determine the violations clerk, the director of community development block grants and the assistant director of community development block grants should be included in the unit. I also determine the payroll supervisor and the director of planning should be excluded from the unit and the director of welfare and the affirmative action should be included in the unit.



Joyce M. Klein
Commission Designee

DATED: April 26, 1988
Trenton, New Jersey

¹/ I note that the correct Commission Docket Number for the certification is RO-82-117.