

E.D. NO. 51

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF JACKSON,

Public Employer

-and-

Docket No. RO-811

OFFICE AND PROFESSIONAL EMPLOYEES
UNION, AFL-CIO,

Petitioner.

SYNOPSIS

Directing an election in a unit of municipal office and clerical employees, the Executive Director invokes for the first time the newly adopted rule change permitting disposition of a representation petition without a formal hearing if the parties have failed to place "substantial and material factual issues" in dispute during the course of the administrative investigation. Rule Section 19:11-1.12(c). In response to the matters and allegations set forth in the petition, the Public Employer simply stated that it entertained a good faith doubt as to both the Petitioner's majority status and as to the adequacy of the showing of interest. The Executive Director finds that neither contention raises a substantial and material factual issue and rules against the Public Employer on both contentions.

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DECISION AND DIRECTION OF ELECTION

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission by Office and Professional Employees Union, AFL-CIO with respect to a unit described as "all office and clerical employees" employed by the Township of Jackson. 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. Both parties have been advised of their obligation under Rule Section 19:11-1.12, and have been afforded an opportunity thereunder, to present to the undersigned documentary and other evidence, as well as statements of position, relating to the matters and allegations set forth in the Petition. On the basis of the administrative investigation herein, 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 issues exist which may more appropriately be resolved after a hearing. Rule Section 19:11-1.12(c). The Township of Jackson has presented no evidence whatsoever relating to the matters and allegations set forth in the Petition. Rather, the Township has merely offered a statement

of position as follows:

"The position of the Township of Jackson has been and continues to be that it has a good faith doubt that a majority of office and professional employees are in favor of this union, and it has a good faith doubt that an adequate showing of interest by the required percentage of employees has been shown in this matter."

The Township's good faith doubt as to the Petitioner's majority representative status is assumed, for absent such doubt voluntary recognition would obviously have been accorded, rendering the Commission's election procedures unnecessary. See Rule Section 19:11-1.14(a). As to the adequacy of the Petitioner's showing of interest, clearly the Township's good faith doubt is immaterial. Pursuant to Rule Section 19:11-1.7, a determination as to its adequacy or inadequacy is not subject to collateral attack.^{1/}

Pursuant to Rule Section 19:11-1.12(c), 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 Township of Jackson is a public employer within the meaning of the Act and is subject to its provisions.

3. Office and Professional Employees Union, AFL-CIO is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Township of Jackson refuses to recognize the Petitioner as the exclusive representative of certain Township employees. Accordingly, a question concerning the representation of public employees exists and this matter is properly before the undersigned for determination.

5. The Petitioner maintains that a unit composed of "all office and clerical employees" employed by the Township of Jackson is an appropriate

^{1/} The showing of interest submitted in the instant case has been found to be adequate. Had it been otherwise, the Petition would have been dismissed early in the investigation.

unit for purposes of collective negotiations. The Township has taken no position with regard to the question of unit appropriateness. Accordingly, the appropriate unit is as follows: "All office and clerical employees employed by the Township of Jackson, excluding managerial executives, supervisors, confidential employees, professional employees, craft employees, and policemen within the meaning of the Act."

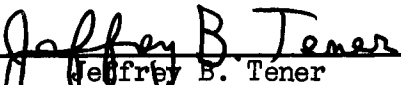
6. It is directed that an election in the unit described above be held within thirty (30) days of the date of this decision. Those eligible to vote shall be those who were employed in such unit during the payroll period immediately preceding the date below, including employees who did not work during the period because they were out ill, or on vacation or temporarily laid off, including those in military service. Employees must appear at the polls to be eligible to vote. Ineligible to vote are those who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. The Commission requires the submission of an alphabetical list of all eligible voters along with their job titles at least seven days prior to the election. Accordingly, the public employer is hereby directed to submit such a list to the Executive Director and to the employee organization which will appear on the ballot as set forth below.

Those eligible to vote shall vote on whether or not they wish to be represented for purposes of collective negotiations by Office and Professional Employees Union, AFL-CIO.

The majority representative shall be determined by a majority of the valid votes cast.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations.

BY ORDER OF THE EXECUTIVE DIRECTOR



Jeffrey B. Tener
Acting Executive Director

DATED: Trenton, New Jersey
August 21, 1974