

E.D. NO. 56

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Public Employer,

-and-

Docket No. RO-906

LOCAL #6, INTERNATIONAL FEDERATION
OF HEALTH PROFESSIONALS, ILA, AFL-CIO,
Petitioner.

SYNOPSIS

The Executive Director dismisses a petition as untimely pursuant to the Commission's contract bar rule. The existing four-year agreement is viewed as a three-year contract for contract bar purposes, but the petition was filed after the open period computed with reference to the expiration of the third year of the agreement. Various allegations by the petitioner are disregarded for lack of substantiation.

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DECISION

A Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission on October 11, 1974 by Local #6, International Federation of Health Professionals, ILA, AFL-CIO ("Local 6") with respect to a unit of approximately 1,000 sanitation, sewer and water department employees of the City of Newark (the "City"). The Petition was perfected by the filing of an adequate showing of interest on October 27, 1974. 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. On the basis of the administrative investigation 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 issue exists which may more appropriately be resolved after a hearing. Rule Section 19:11-1.12(c).

2. The City contends that the Petition is untimely and should be dismissed. In support of this contention, the City has submitted a copy of an executed agreement between it and Local

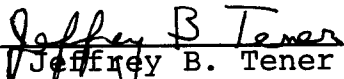
945, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (the "Teamsters") covering, among others, the employees petitioned for by Local 6, and having a term of January 1, 1972 to and including December 31, 1973. The City has also submitted a copy of an executed "Amendment to Agreement", dated August 14, 1973, which, among other things, deletes and replaces the duration clause of the original agreement with the following: "This Agreement shall be in full force and effect as of January 1, 1972 and shall be in effect to and including December 31, 1975...." The City apparently relies upon the foregoing as "an existing written agreement" within the meaning of the contract bar rule. Rule Section 19:11-1.15(c).

The undersigned views the existing amended agreement between the City and the Teamsters as having a term of four years. Thus, for purposes of the contract bar rule the agreement will be treated as a three year agreement having a term of January 1, 1972 to and including December 31, 1974. Rule Section 19:11-1.15(d). Pursuant to Rule Section 19:11-1.15(c)(2) the open period for timely filing is "not less than 90 days and not more than 120 days" before December 31, 1974. The instant Petition was neither filed nor perfected until after the open period.

During the investigation Local 6 has alleged that the amendment agreement was not ratified, the unit employees were never informed of its existence and never received various wage increases called for under it, and that it may not accordingly operate as a bar to the instant Petition. Local 6 has been informed of its obligation under Rule Section 19:11-1.12(a) to present

documentary and other evidence, as well as statements of position, in support of these allegations, but has been unable or unwilling to do so. The Petition is accordingly dismissed as untimely.

BY ORDER OF THE EXECUTIVE DIRECTOR



Jeffrey B. Tener
Acting Executive Director

DATED: Trenton, New Jersey
December 6, 1974