

D.R. NO. 87-23

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

In the Matter of

CITY OF ATLANTIC CITY,

Public Employer,

-and-

AFSCME, COUNCIL #71, AFL-CIO

DOCKET NO. CU-86-48

Petitioner,

-and-

ATU, LOCAL 880, AFL-CIO,

Incumbent Intervenor.

SYNOPSIS

The Director clarifies a unit of Atlantic City blue-collar employees represented by Council 71 to include several titles. Council 71 petitioned for the clarification when it learned that employees holding these blue-collar titles were designated by the City as members of Teamsters Union Local 331 and ATU Local 880. The Director based the clarification on documentation submitted by Council 71 which demonstrated that it has historically represented the titles.

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Appearances:

For the Public Employer
Patino-Treat and Rosen
(Louis C. Rosen, of counsel)

For the Petitioner
Emanuel Murray, Staff Representative

For the Incumbent Intervenor
Robert A. Molofsky, Esquire

DECISION

On February 27, 1986, AFSCME Council 71, ("Council 71") filed a petition seeking clarification of its collective negotiations unit of blue-collar employees employed by the City of Atlantic City ("City"). Council 71 claims that, despite its certification in 1971 as the exclusive representative of all

blue-collar employees,^{1/} certain employees holding blue-collar titles are currently included in units represented by the Amalgamated Transit Union, Local 880, AFL-CIO ("ATU")^{2/} and by Teamsters Union Local 331 ("Local 331").^{3/}

1/ On September 22, 1971, AFSCME was certified as the exclusive representative of the following unit:

All blue-collar employees of Atlantic City but excluding craft employees, professional employees, managerial executives, supervisors within the meaning of the Act and all employees at Convention Hall. Docket No. RO-158.

2/ On June 1, 1982, ATU Local 880 was certified as the exclusive representative of the following unit:

Included: All salary and hourly rated employees classified as baggage agents, bag persons, janitors, matrons and security guards employed by the City of Atlantic City at the Atlantic City Bus Terminal.

Excluded: Managerial executives, confidential employees, craft employees, professional employees, police employees, fire employees and supervisors within the meaning of the Act. Docket No. RO-82-31.

3/ On May 31, 1983, Local 331 was certified as the exclusive representative of the following unit:

All City employees employed by the City of Atlantic City excluding policemen, firemen, craft and blue collar workers as defined under the PERC decision in 1970, [a reference to RO-158] supervisors, confidential employees and managerial executives as defined in the Act. (emphasis added). Docket No. RO-83-154.

On May 1, 1980, Local 331 was certified as the exclusive representative of the following unit:

On March 12, 1986, we advised Council 71 that its petition could not be processed unless amended to conform to N.J.A.C. 19:11-1.5(b).^{4/}

On March 21, 1986, Council 71 amended its petition and submitted a list of blue-collar employees that it claims are currently in the ATU or Local 331 units. With the list, Council 71 filed a position statement in which it claims that, "apparently, in the late seventies, some titles were taken out of our bargaining unit and assigned to other units."

3/ Footnote Continued From Previous Page

"All regularly employed full time and part-time employees employed by the Atlantic City Parking Authority... Docket No. RO-80-137

On February 16, 1978, Local 331 was certified as the exclusive representative of the following unit:

"School Crossing Guards employed by the City of Atlantic City but excluding managerial executives, confidential employees, police employees, professional employees, and supervisors within the meaning of the Act. Docket No. RO-78-72.

4/ N.J.A.C. 19:11-1.5(b) requires that a clarification of unit petition, in addition to setting forth the information required by paragraphs (a)1, and (a)7 of N.J.A.C. 19:11-1.2, shall contain the following:

1. A description of the present negotiations unit and the date of the certification or recognition;
2. A description of the proposed clarification of the unit;
3. A statement by petitioner setting forth reasons as to why clarification of unit is requested.

On June 12, 1986, a Commission staff agent convened an informal conference and began an investigation. Representatives from ATU and Council 71 were present. Local 331 and the City did not attend the conference nor did they, despite several requests by the staff agent, participate in the investigation.

On July 7, 1986, after reaching an agreement with ATU, Council 71 amended its petition by deleting some of the titles which it originally sought and had claimed were inappropriately included in the ATU unit.

On July 7, 1986 and again on August 19, 1986, letters were sent to the City and Local 331 requesting information relative to the investigation. Neither the City nor Local 331 responded.

On October 3, 1986, Council 71 was asked to submit materials documenting the negotiations history of the titles at issue.

On November 17, 1986, Council 71 filed a position statement supported by documentation, which included several contracts between the City and Council 71 covering the blue collar unit as early as 1972. Council 71 explained that, during negotiations for its current collective negotiations agreement with the City, it requested a list of all City employees which designated each employees' title and union affiliation. Upon receiving the list, Council 71 discovered that certain employees holding the following titles were listed as having affiliated with Teamsters Local 331: mechanics, mechanics helper, recreation attendants, garage

attendants, tow truck operators, traffic maintenance workers, senior mechanic, traffic sign repairer, seasonal laborer, senior building maintenance worker, police guard, practical nurse, radio repairer, security officer, parking violations officer, violations officer, and school crossing guard. These are the titles which Council 71 petitions to clarify into its unit.

A review of the evidence submitted by Council 71 reveals that in past years, it has negotiated for several of the titles sought in its petition. The recognition clauses and salary guides of its contracts with the City make specific reference to the following titles: mechanics, mechanics helper, recreation attendant, garage attendant, senior mechanic, senior building maintenance worker. Council 71's certification would allow for the inclusion of these titles in its unit.

However, Council 71 has not supplied documentation supporting its position that the balance of the titles it seeks should be clarified into its unit. While some of these titles which it is seeking appear to be blue-collar titles, there is no specific reference to them in any of Council 71's contracts with the City. Some of these remaining titles could just as easily belong to Local 331's unit of employees at the City's Parking Authority. An examination of the unit certifications issued to Local 331 and Council 71 (Docket Nos. RO-158; RO-83-154; RO-80-137; RO-78-72) does not provide any information useful in clarifying the unit status of the remaining titles sought in Council 71's petition. The school crossing guards are represented by Local 331. (Docket No. RO-78-72).

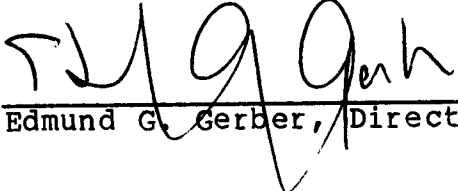
Based on the above, we advised the parties on January 28, 1987 that we were inclined to clarify Council 71's blue-collar unit to include mechanics, mechanics helpers, recreation attendants, garage attendants, senior mechanics and senior building maintenance workers. We also advised the parties that we were inclined to dismiss that portion of Council 71's petition which seeks to include the titles of seasonal laborer, tow truck operator, traffic maintenance worker, traffic sign repairer, public guard, practical nurse, radio repairer, security officer, parking violations officer, violations officer and school crossing guard.

We invited the parties to file additional evidentiary materials or statements in support of their position and advised them that, in the absence of evidence and argument to the contrary, we would issue a decision clarifying Council 71's unit to include the titles of mechanic, mechanics helper, recreation attendant, garage attendant, senior mechanic, and building maintenance workers, and dismissing the remainder of Council 71's petition (N.J.A.C. 19:11-2.6).

On February 9, 1987, Local 331 filed a letter stating that it has represented mechanics and mechanics helpers employed at the City's Police and Fire Garages. Attached to its letter was a note from the City's payroll office indicating that these mechanics and mechanics helpers "have received the wages, hours and conditions of employment through the collective bargaining process practiced with the City...and Local 331." Local 331 did not submit any evidentiary

materials (current or expired contracts, etc.) documenting its claim of a collective negotiations history of representing the titles. When weighed against the documentation submitted by Council 71, Local 331's submission is unconvincing. Accordingly, it is ordered that the blue collar unit represented by Council 71 is clarified to include the titles of mechanics, mechanics helpers, recreation attendants, garage attendants, senior mechanics and senior building maintenance workers. The remainder of Council 71's petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: February 24, 1987
Trenton, New Jersey