

D.R. NO. 2016-6

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

In the Matter of

TOWNSHIP OF WALL,

Public Employer,

-and-

Docket No. RO-2016-030

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS LOCAL 5041,

Petitioner.

SYNOPSIS

The Director of Representation orders that International Association of Fire Fighters Local 5041 (Local 5041) be certified as the exclusive representative of all regularly employed emergency medical technicians employed by the Township of Wall, based upon a card check. The Township did not object to Local 5041's petition but refused to sign a Stipulation of Appropriate Unit. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and Local 5041 complied with the card check rules, the Director certified Local 5041 as the majority representative for the unit in question.

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Appearances:

For the Respondent
Cleary Jacobbe Alfieri Jacobs, LLC, attorneys
(Gregory Franklin, of counsel)

For the Petitioner
Keith B. Kemery, District Representative

DECISION

On January 19, 2016, the International Association of Fire Fighters Local 5041 ("Local 5041") filed a representation petition for card check certification seeking to represent a unit of "[a]ll full time paid Emergency Medical Technicians" employed by the Township of Wall ("Township"). The petition was accompanied by authorization cards from a majority of the petitioned-for unit employees. No other labor organization claimed interest in representing the employees.

The Township has not objected to Local 5041's petition but refuses to sign a Stipulation of Appropriate Unit form allowing continued processing of the petition.

We have conducted an administrative investigation to determine the facts. N.J.A.C. 19:1-2.2. On February 10, 2016, we wrote to the parties, inviting them to submit written objections or other submissions by February 16, 2016. Neither party filed a response. The disposition of the petition is properly based upon our administrative investigation. There are no substantial material facts in dispute which would require convening an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon the administrative investigation, I find the following facts:

FINDINGS OF FACT

On January 26, 2016, we provided Notices to Employees, advising that Local 5041 filed a petition for certification by card check. The Township has certified that it posted the notices for the required ten-day period. On January 27, 2016, at our request, the Township filed a list of the petitioned-for employees. We have compared the submitted authorization cards against the names provided on the Township's list and determined that a majority of unit employees have signed authorization cards for Local 5041.

On February 10, 2016, a Commission staff agent provided the parties with a proposed Stipulation of Appropriate Unit form setting forth the petitioned-for unit description. The Township declined to sign the proposed Stipulation.

ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, to authorize the Commission to certify a majority representative by authorization cards where: (a) a majority of employees in an appropriate unit have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. See N.J.A.C. 19:11-2.6(b).

The Township has failed to respond to Local 5041's petition for card check certification and has not raised any objection contesting either the petition or the proposed Stipulation of Appropriate Unit.

The Legislature has determined that a check of an organization's authorization cards signed by a majority of employees in an appropriate unit is a lawful method to determine a majority representative. Our review of Local 5041's authorization cards shows that it has submitted cards from a majority of the petitioned-for employees. The employee's signatures on the cards meet the intent of the statutes and the

rules. Accordingly, Local 5041 is entitled to a certification based upon a card check, regardless of the Township's failure to submit a signed Stipulation of Appropriate Unit. See City of Perth Amboy, D.R. No. 2010-2, 35 NJPER 243 (¶87 2009); Passaic County Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic County Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

I find that the following unit is appropriate:

Included: All regularly employed non-supervisory emergency medical technicians employed by the Township of Wall.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, police, casual employees, and all other employees employed by the Township of Wall.

ORDER

I certify International Association of Fire Fighters Local 5041 as the exclusive representative of the unit described above, based upon its authorization cards.^{1/}

Very truly yours,

/s/Gayl R. Mazuco
Director of Representation

DATED: March 3, 2016
Trenton, New Jersey

^{1/} The formal certification is attached.

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by March 14, 2016.