

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

In the Matter of

CAMDEN COUNTY BOARD OF
CHOSEN FREEHOLDERS,

Public Employer-Petitioner,

-and-

Docket No. RE-77-5

COUNCIL NO. 10, N.J.C.S.A.,

Employee Representative,

-and-

COUNCIL #71, A.F.S.C.M.E., AFL-CIO,

Employee Representative.

SYNOPSIS

The Director of Representation certifies Council No. 10, N.J.C.S.A. as the exclusive representative of all non-supervisory blue collar employees of the County of Camden located at the Lindenwold Complex, Department No. 36 after dismissing objections to the election which were filed by Council #71, AFSCME, AFL-CIO. Council #71 did not submit probative evidence in support of its objections.

One of the objections, respecting claimed omissions of three names from the voter eligibility list, is dismissed insofar as Council #71 expressed awareness of the claimed omissions prior to the election, one of the omitted personnel had in fact voted a challenged ballot, and that even had all the omitted personnel voted the outcome of the election would not have changed.

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DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to an Agreement for Consent Election, a secret ballot election was held on July 20, 1977, for employees described below.^{1/} The tally of ballots reveals that of approximately 20 eligible voters, nine ballots were cast for Council No. 10, N.J.C.S.A., and one ballot was cast for Council #71, A.F.S.C.M.E. There were no ballots cast against representation and there were four challenged ballots. The challenges are not sufficient in number to affect the results of the election.

Council #71, A.F.S.C.M.E., filed timely objections to the election. A copy of these objections, received July 26, 1977 is attached hereto and made a part hereof.

^{1/} As described in the Agreement for Consent Election, the voting unit included all non-supervisory blue collar employees located at the Public Employer's Lindenwold Complex, Department 36.

In accordance with the provisions of the Agreement for Consent Election which was signed by both parties and approved by the undersigned ^{2/} and in accordance with the Commission's Rules, ^{3/} the undersigned has investigated the matter contained in the objections.

By letter dated August 2, 1977, Council #71 was advised that:

"Normally the undersigned will conduct an administrative investigation into your objections. However, such an investigation will not be conducted unless you have furnished sufficient evidence to support a prima facie case. Therefore, you must furnish evidence, such as affidavits or other documentation, that precisely and specifically shows that conduct has occurred which would warrant setting aside the election as a matter of law. Since you bear the burden of proof in this matter, you are required to produce the specific evidence which you rely upon in support of the claimed irregularity in the election process. This

- 2/ See Item 6 of Agreement for Consent Election, which states, in part: "The Executive Director shall conduct an investigation of the matters contained in the objections and shall, where appropriate, issue a notice of hearing designating a hearing officer to hear the matters alleged...The objection party shall bear burden of proof regarding all matters alleged in the objections...The method of investigation of objections and challenges, including the question of whether a hearing should be held in connection therewith, shall be a final administrative determination unless the Commission shall have granted a request for review." (Emphasis added)
- 3/ N.J.A.C. 19:11-2.4 in effect at the time the objections were filed provides that: "Where objections are filed..., the Executive Director shall conduct an investigation and shall where appropriate, issue a notice of hearing.... The objecting party shall bear the burden of proof regarding all matters alleged in the objections...."

It should be noted that on June 22, 1976 the Commission delegated the authorities of the Executive Director in Representation matters to the undersigned Director of Representation.

agency will not assume the burden of seeking out such evidence. The burden of bringing such evidence forward is upon you. In accordance with the above, if you have not already done so, you are directed to submit to the assigned staff member specific evidence as outlined above within five (5) working days after receipt of this letter. Failure to submit such evidence may result in the immediate dismissal of your objections."

To date no response to this letter has been received and the objections remain unsubstantiated.

Based upon the above and in accordance with the policy of the Commission as enunciated in the State of New Jersey, et al., P.E.R.C. No. 76 (April 28, 1973)^{4/} the undersigned concludes that the objections filed herein should be, and are hereby, dismissed. Further withholding of certification in this matter when the objecting party has not supplied probative evidence as required by the Commission's Rules would be unreasonable.

Additionally, the undersigned notes, on the basis of the Commission's election records, that the unsupported allegations in paragraphs 2 and 3, even accepting their veracity, are insufficient to support a request to set aside the election.

^{4/} At page 8, the Commission stated: "The Commission does not believe that the mere claim of objectionable conduct, unsupported in the investigative stage by any evidence should thereby entitle the objecting party to a hearing, or alternatively, that a claim for which the evidence presented is found to be insufficient support for the objection, should create a right to a hearing. If there is to be protracted delay of the certification of the election's results, there should be some reasonable basis which would warrant such delay in the first instance. The Commission believes that the presentation of evidence raising substantial questions of fact is a reasonably imposed precondition to the holding of a hearing. The failure of the objecting party to satisfy such condition should permit the Commission to proceed to certify the outcome of the election." See also, Township of Stafford, E.D. #70 (April 14, 1975).

The election records indicate that Mr. Green, who is mentioned in paragraph 2, appeared at the voting location and cast a challenged ballot. Mr. Green's challenged vote is insufficient to affect the results of the election. With respect to the objections of paragraph 3, the records indicate that Council #71 advised the Commission's election agent prior to the election on July 12, 1977 of its claim that the names of three eligible voters were excluded from the employer's eligibility list. One of the individuals named by Council #71 cast a challenged ballot at the election. Even had the other two individuals appeared and cast ballots at the election, their votes would not have changed the results of the election.

Accordingly, the undersigned shall dismiss the objections and certify Council No. 10, N.J.C.S.A.

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the Director of Representation, in accordance with the New Jersey Employer-Employee Relations Act, as amended, and Chapter 11 of the Commission's Rules, among certain employees to determine whether they desired to be represented for the purposes of collective negotiations; and it appearing from the Tally of Ballots that a majority of the employees voting in the voting unit of all non-supervisory blue collar employees of the County of Camden located at the Lindenwold Complex, Department No. 36, have expressed a desire to be represented by Council No. 10, N.J.C.S.A. as the exclusive

representative for purposes of collective negotiations for terms and conditions of employment in Council No. 10's existing negotiations unit;

Pursuant to authority vested in the undersigned, IT IS HEREBY CERTIFIED that

COUNCIL NO. 10, N.J.C.S.A.

has been designated and selected by the employees of the Camden County Board of Chosen Freeholders, in the voting unit described above, as their representative for the purpose of collective negotiations, and that pursuant to the New Jersey Employer-Employee Relations Act, as amended, the said representative is the exclusive representative for all such employees for the purpose of collective negotiations with respect to terms and conditions of employment. Pursuant to the Act, the said representative shall be responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership; the said representative and the above-named Public Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment; when an agreement is reached it shall be embodied in writing and signed by the parties; and written policies setting forth grievance procedures shall be negotiated and shall be included in any agreement.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director
of Representation

DATED: August 30, 1977
Trenton, New Jersey



Council 71

American Federation of STATE, COUNTY, and MUNICIPAL EMPLOYEES - AFL-CIO

525 Cooper Street

Camden, New Jersey 08102

Telephone: (609) 365-4742

July 25, 1977

ANDERSON WAYS
President

FRANCIS HARMON
Sec. Treas.

JOSEPH ASBELL
Attorney

N.J. State Public Employment Relation Commission
Labor and Industry Building
P.O. Box 2209
Trenton, New Jersey

Re: Matter of County of Camden, Council 10, NJCSA &
AFSCME, Council 71 - Docket #RE77-5
Michael Berman, Election Officer

Dear Mr. Berman;

Previously an election was held between Camden County Council #10 and AFSCME, Council #71, Docket #RE77-5. Council 71 takes position in filing objections of the conditions of the election held between the above parties, on July 20, 1977, Camden County Complex - time 10: A.M. The objections being filed are as follows:

1. Improper conduct of departments 36 supervisor, Jack Wentzel did stand in the aisle, within 50 feet of the Poll, with a pad and pencil writing the names of all the eligible voters who came to cast their ballots. It was within 75 feet of the actual voting box.
 2. Mr. Wentzel arbitrarily discriminated against Tony Green, by sending a County car to the maintenance bldg. to pick up voters and bring them to the polling place; and by refusing the same courtesy to Mr. Green, who is a CETA employee.
 3. In accordance with Sec. 19: 11-2.7 of the Commissions rules and regulation; the eligible list of voters were improper because there were eligible voters whose names did not appear on the eligibility list, but appeared on the June 24th payroll, which was agreed by both parties to be the deadline for eligible voters.
- I await your reply in this matter.

Yours truly,
Anderson E. Ways
Anderson E. Ways, Pres.

c.c. Vincent Paglione
Joseph A. Carmen
Ronald Kerins