

E.D. NO. 63

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF DOVER,

Public Employer,

-and-

Docket No. RO-882

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS LOCAL 37,

Petitioner.

SYNOPSIS

The Executive Director directs an election in a unit of blue-collar employees of the Department of Streets and Sewers of the Township of Dover in the absence of substantial and material factual issues. The parties had agreed to a consent election specifically excluding Emergency Employment Act employees. The Executive Director declined to approve this consent, not being satisfied that EEA employees should be excluded, and permits these employees to vote subject to challenge in accordance with the Commission's challenge procedures.

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DECISION AND DIRECTION OF ELECTION

A Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission by International Brotherhood of Teamsters Local 37 (the "Teamsters") with respect to a unit of "all employees" of the Department of Public Works (commonly known as the department of streets and sewers) of the Township of Dover (the "Township"), excluding "office and clerical employees and Town Superintendent and Assistant Superintendent". 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 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. 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 Dover is a public employer within the meaning of the Act and is subject to its provisions.

3. International Brotherhood of Teamsters Local 37 is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Township refuses to recognize the Teamsters 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 sole issue in dispute<sup>1/</sup> relates to the status of certain employees who are employed pursuant to the Emergency Employment Act of 1971 ("EEA"). The parties have agreed upon a unit description that would include all employees of the Department of Streets and Sewers employed by the Township of Dover except office and clerical employees, guards, watchmen, summer help, craft employees, professional employees, policemen, all employees employed under the Emergency Employment Act, Town Superintendent, Assistant Town

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<sup>1/</sup> The Township has formally withdrawn an objection concerning certain organizational activities of an officer of the Teamsters.

Superintendent, foremen, and supervisors within the meaning of the Act.

The undersigned will not approve an agreement for consent election in that unit because he is not satisfied that EEA employees should be excluded.

6. Accordingly, the undersigned directs that a secret-ballot election be conducted no later than thirty (30) days from the date set forth below in the unit described as follows: All employees of the Department of Streets and Sewers employed by the Township of Dover but excluding office and clerical employees, guards, watchmen, summer help, craft employees, professional employees, policemen, Town Superintendent, Assistant Town Superintendent, foremen, and supervisors within the meaning of the Act.

EEA employees may vote subject to challenge. These challenges, if determinative, will be resolved in accordance with the Commission's usual procedures. If the challenges are not determinative, the status of these employees may be resolved by a clarification of unit petition filed by either party in accordance with the Commission's Rules, assuming that a certificate of representative issues.

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the desig-

nated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to Rule Section 19:11-2.7 the public employer is directed to file with the undersigned an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. Such list must be received by the undersigned no later than ten (10) days prior to the date of the election. The undersigned shall make the eligibility list immediately available to all parties to the election. Failure to comply with the foregoing shall be grounds for setting aside the election upon the filing of proper post-election objections pursuant to the Commission's Rules.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by International Brotherhood of Teamsters Local 37.

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 and Statement of Procedure.

BY ORDER OF THE EXECUTIVE DIRECTOR

  
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Jeffrey B. Tener  
Acting Executive Director

DATED: Trenton, New Jersey  
January 16, 1975