

D.R. NO. 87-4

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

In the Matter of

BOROUGH OF POINT PLEASANT BEACH,

Public Employer,

-and-

DOCKET NO. RO-86-134

TRANSPORT WORKERS UNION, LOCAL 225,
BRANCH 4, AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation orders an election for a unit consisting of all blue and white collar employees of the Borough of Point Pleasant Beach. The Borough refused to consent to the election, although the Borough did not assert any objective basis for its refusal to consent to the election. The petitioned-for unit is appropriate therefore warranting the Director to conclude that an election should be conducted among the employees to determine their representational status.

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Appearances:

For the Public Employer
Hiring & Hoffman, Esqs.
(Edward V. Murachanian, of counsel)

For the Petitioner
William J. Ernst, President

DECISION AND DIRECTION OF ELECTION

A timely Petition for Certification of Public Employee Representative ("Petition") was filed with the Public Employment Relations Commission ("Commission") by the Transport Workers Union, AFL-CIO, Local 225, Branch 4 ("Union"), seeking to represent certain employees employed by the Borough of Point Pleasant Beach ("Borough"). The Petition, filed on May 6, 1986, seeks to organize all blue and white collar employees into one unit. This unit would exclude crossing guards, supervisors and managerial employees. The Petition is supported by an adequate showing of interest. The employees have never been previously organized and there is no

contract bar to this election.

We have authorized an administrative investigation into the matters and allegations involved in the Petition in order to determine the facts. See N.J.A.C. 19:11-2.2 and N.J.A.C. 19:11-2.6. To date, the facts are as follows:

The disposition of this matter is properly based on our administrative investigation. We have not found any substantial and material factual disputes which may more appropriately be resolved at hearing. See N.J.A.C. 19:11-2.6(b).

The petitioned-for unit consists of 22 full-time blue collar and white collar employees. The petitioned-for employees are not presently represented by any other employee representative. Neither party disputes the appropriateness of the petitioned-for unit. The Borough refused to consent to an election on the premise of fear of a general services strike in the event of certification.

* * *

N.J.S.A. 34:13A-5.3 provides in part:

Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity....

The Borough's preference for not having the employees organized does not constitute a sufficient basis to deny employees the representational rights guaranteed to them by subsection 5.3 of the Act. The Borough has refused to consent to an election yet has

set forth no facts showing that the petitioned-for unit is inappropriate. See, In re Township of Washington, D.R. No. 86-15, 12 NJPER 226 (¶17093 1986); In re Borough of Haddonfield, D.R. No. 83-13, 8 NJPER 588 (¶13273 1982). No substantial material factual disputes have been found which may more appropriately be resolved at hearing. See N.J.A.C. 19:11-2.6(b).

Accordingly, I direct that an election be conducted among the employees in the petitioned-for unit, which is comprised as follows: included - all blue and white collar employees employed by the Borough of Point Pleasant Beach; excluded - all crossing guards, supervisors, managerial executives, and confidential employees within the meaning of the Act, police and fire employees. The election shall be conducted no later than thirty (30) days from the date of this decision.

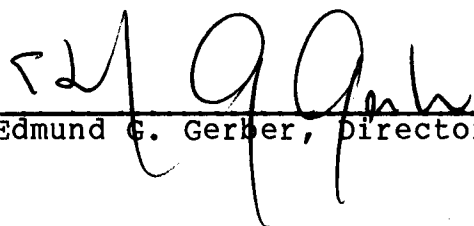
Those eligible to vote are the employees in the unit set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation or temporarily laid off, including those in military service.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

Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with me an eligibility list consisting of an

alphabetical listing of the names of all eligible voters in the unit, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by me no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the employee organization with a statement of service to me. I shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether they desire to be represented for the purpose of collective negotiations by T.W.U., AFL-CIO, Local 225, Branch 4. The exclusive representative, if any, shall be determined by a majority of the valid votes cast in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: August 15, 1986
Trenton, New Jersey