

D.R. NO. 88-13

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

In the Matter of

ESSEX COUNTY DIVISION OF WELFARE,

Public Employer,

-and-

COMMUNICATIONS WORKERS OF AMERICA,

Docket No. RO-88-21

Petitioner,

-and-

TEAMSTERS LOCAL 97,

Intervenor.

SYNOPSIS

The Director of Representation orders an election to be conducted among certain employees of the Essex County Division of Welfare where the employer refused to consent to an election in an appropriate unit but put forth no valid reasons for that refusal.

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Appearances:

For the Public Employer
Apruzzese, McDermott, Mastro & Murphy, Esqs.
(Robert Clarke, of counsel)

For the Petitioner
Kathleen A. King, Staff Rep.

For the Intervenor
Thomas A. Donahue, Jr., Representative

DECISION AND DIRECTION OF ELECTION

On September 8, 1987, a Petition for Certification of Public Employee Representative ("Petition") was filed by the Communications Workers of America ("CWA") seeking to represent all clerical employees employed by the County of Essex, Division of Welfare ("County"). The Petition is supported by an adequate showing of interest. The petitioned-for unit is currently

represented by the International Brotherhood of Teamsters, Local 97 ("Teamsters").

On September 28, 1987, an investigatory conference was conducted by a Commission staff attorney. Representatives of the County and the CWA attended the conference.^{1/} At the conference, the County refused to consent to a representation election, but raised no facts or other objections in support of its position.

On September 29, 1987, the Teamsters filed a formal request to intervene, accompanied by a negotiations agreement showing that organization to be the incumbent representative.

The facts reveal that a valid Petition, supported by an adequate showing of interest, has been filed by the CWA for the County's Welfare Division clerical employees. The Petition raises a question concerning their representation. It further appears that the employees are currently represented by an incumbent employee organization, Teamsters Local 97. Teamsters Local 97 wishes to intervene in the representation proceeding and has not set forth any objections to an election. Finally, although the employer refuses to consent to an election among its employees, it has not stated any valid reasons why this election should not take place. An

^{1/} No representatives of the Teamsters were present at the conference. The Teamsters claim that they did not receive a September 10, 1987, scheduling letter from Director Gerber, although they acknowledge that the Notice to Public Employees was posted at Division offices. The Teamsters' request to postpone the conference was denied because, as of the conference date, the Teamsters had neither filed nor perfected a formal intervention request with the Commission.

employer's refusal to consent to an election in an appropriate unit, absent valid reasons, will not bar the conduct of an election. Twp. of Winslow, D.R. No. 87-8, 12 NJPER 784 (¶17298 1986); Borough of Point Pleasant Beach, D.R. No. 87-4, 12 NJPER 395 (¶17155 1986); and Twp. of Washington, D.R. No. 86-15, 12 NJPER 226 (¶17093 1981).

Accordingly, we direct that an election be conducted among the employees in the petitioned-for unit, which is comprised as follows: included - all office clerical employees of the Essex County Division of Welfare including: clerk, senior clerk, senior clerk bookkeeper, senior account clerk, senior clerk typist, messenger, principal clerk, principal clerk bookkeeper, principal account clerk, principal clerk stenographer, storekeeper, clerk bookkeeper, account clerk, senior clerk stenographer, senior telephone operator, tabulating machine operator, senior tabulating machine operator, key punch machine operator, senior key punch machine operator, principal tabulating machine operator, telephone operator, clerk typist, clerk transcriber, clerk stenographer, and stock clerk; excluded - all professional and craft employees, supervisors within the meaning of the Act, police, managerial executives, confidential employees and all other employees employed by the Essex County Division of Welfare. The election shall be conducted no later than thirty (30) days from the date of this decision.

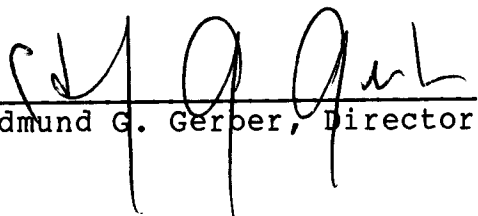
Those eligible to vote are the employees in the unit set forth above who were employed during the payroll period immediately

preceding the date of this decision, including those 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 election. A copy of the eligibility list shall be simultaneously filed with both employee organizations, with a statement of service to me. We 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 CWA, the Teamsters or whether they desire to have no representative. 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: October 16, 1987
Trenton, New Jersey