

D.R. NO. 82-12

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

In the Matter of

GLOUCESTER CITY,

Public Employer,

-and-

DOCKET NO. RO-81-245

TEAMSTERS LOCAL 676, a/w
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among all dispatchers employed by the City. Since the dispatchers are civilian employees, they may not be placed in a unit with police. Further, although 2 dispatchers are classified as "temporary" Civil Service employees, their Civil Service status is not an over-riding factor which negates a community interest with "permanent" employees.

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Petitioner.

Appearances:

For the Public Employer
John A. DeFalco, attorney

For the Petitioner
Howard Greeley, Organizer

DECISION AND DIRECTION OF ELECTION

On May 27, 1981, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by Teamsters Local 676, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 676") seeking to represent a collective negotiations unit of all "white collar police dispatchers employed by Gloucester City (the "City")." The undersigned has caused an administrative investigation to be conducted into the

matters and allegations set forth in the Petition in order to determine the facts.

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 that no substantial and material factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), 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. Gloucester City is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of this Petition and is subject to the provisions of the Act.

3. Teamsters Local 676, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is an employee representative within the meaning of the Act and is subject to its provisions.

4. Local 676 is seeking to represent the dispatchers employed by the City, and is willing to consent to a secret ballot election among the employees (four employees) in the petitioned-for unit. The dispatchers are not currently represented for the purposes of collective negotiations.

5. By letter dated July 23, 1981, the City indicated its unwillingness to consent to a secret ballot election herein for two reasons. First, the City argued that the unit sought was inappropriate because dispatchers should be included in a unit of police officers, and second, because two dispatchers are "temporary" and not permanent employees under Civil Service regulations. The City concluded that the recognition of a unit consisting of the remaining two dispatchers would be totally unnecessary and unworkable.

6. By letter dated August 17, 1981, the undersigned advised the parties of the results of the investigation to that date, and analyzed the issues raised by the City. First, the parties were advised of the statutory prohibition in N.J.S.A. 34:13A-5.3 which precludes the inclusion of police and nonpolice employees in the same negotiations unit. Second, the parties were advised that the Civil Service classification of employees as "temporary" is not an over-riding factor which negates a community of interest with "permanent" employees. Elaborating upon this issue the undersigned stated:

With respect to the City's apparent argument that the dispatchers holding temporary Civil Service designations are ineligible for the petitioned-for unit, the undersigned has held that a "temporary" classified Civil Service Employee has a reasonable expectation of permanent employment and is eligible for inclusion in a unit with "permanent" classified Civil Service employees, with whom they otherwise share a community of interest. See In re City of Bordentown, D.R. No. 81-27, 7 NJPER 120 (¶ 12949 1981). Since there is no evidentiary proffer that the dispatchers holding temporary classifications do not otherwise share a community of interest with the remaining dispatchers, then a unit of all dispatchers is prima facie appropriate.

Accordingly, the parties were notified that on the basis of the administrative investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation exists in a prima facie appropriate unit. The undersigned provided an additional opportunity to the parties to present evidence as well as statements of position relating to the instant Petition. The undersigned stated that in the absence of any substantial and material factual disputed issues, he would thereafter issue a decision and direction of election. No further evidentiary proffer or statement has been submitted to the undersigned.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds that the appropriate unit is: All dispatchers employed by Gloucester City, but excluding managerial executives, confidential and craft employees, professional employees, supervisors and police within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

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 the 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 following the designated payroll period and who have not been rehired or reinstated prior to the date of the election.

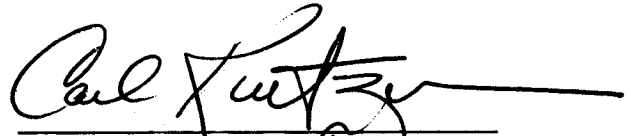
Pursuant to N.J.A.C. 19:11-9.6, the City is directed to file with the undersigned and Local 676 an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses. In order to be timely filed the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with Local 676 with statements of service to the undersigned. The undersigned 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 wish to be represented for purposes of collective negotiations by Teamsters Local 676, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be directed in

accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: September 10, 1981
Trenton, New Jersey