

P.E.R.C. NO. 2023-52

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNIVERSITY HOSPITAL,

Respondent,

-and-

Docket No. RO-2023-028

TEAMSTERS LOCAL 97,

Petitioner.

Appearances:

For the Respondent, Melissa A. Provost, Associate  
General Counsel

For the Petitioner, Mets Schiro McGovern LLP, attorneys  
(James M. Mets, of counsel)

DECISION

On March 8, 2023, Teamsters Local 97 (Local 97) filed a request for review of the Director of Representation's February 27, 2023 letter dismissing its January 10, 2023 representation petition. Local 97's petition seeks to represent a separate negotiations unit of non-supervisory paramedics, emergency medical technicians (EMTs), and dispatchers employed by University Hospital (UH) by severing them from Local 97's existing unit that also includes licensed practical nurses (LPNs), clerical staff, health care, service, operations, and maintenance staff employed by UH.

In support of its petition, Local 97 filed a February 3, 2023 brief along with a certification with exhibits from Senior

Paramedic Steven Chait. On February 10, UH filed a brief opposing Local 97's severance petition. In his February 27 letter decision (Director's Letter), the Director found that Local 97 has not made a prima facie case for severance because it did not establish a proper basis for severance according to the Commission's standards outlined in Middlesex Cty. Sheriff's Office, D.R. No. 2020-15, 46 NJPER 478 (¶107 2020). The Director also found that Local 97 has not identified significant "changed circumstances" or significant differences among employees to show a lack of community of interest between the petitioned-for employees and the rest of Local 97. Local 97's March 8 request for review included a brief along with the Chait certification and exhibits included in its February 3 submission to the Director. UH did not respond to the request for review.

In its request for review, Local 97 asserts that it made a prima facie case for severance of the petitioned-for employees (paramedic, EMT, and dispatcher titles) from the broader Local 97 unit. Local 97 argues that paramedics, EMTs, and dispatchers have similar and sometimes overlapping duties among themselves that are separate from those performed by other Local 97 members. It contends that there are significant differences between the petitioned-for employees' titles and the other 407 titles within Local 97 employed at UH. As examples of these alleged significant differences, Local 97 asserts that the petitioned-for

employees: have different job duties and different work locations because they do not primarily work in the hospital but are transporting patients or dispatching from a different building; require different licenses and certifications; work in a rigid paramilitary organization; wear different uniforms; work different hours (mostly 12-hour shifts); and deal with uniquely hazardous working conditions due to their driving and dealing with potentially dangerous people and situations in the streets. Local 97 contends these differences are so great that there is no longer a community of interest between the petitioned-for employees and the broader Local 97 unit. Finally, Local 97 asserts that the sizable increase in the number of employees employed as paramedics, EMTs, and dispatchers is a changed circumstances supporting severance from the broader unit.

Local 97 therefore asserts that Commission review is appropriate because it has raised a substantial question of law concerning the interpretation of the Act and an important Commission rule or policy should be reconsidered concerning the community of interest standard for severance petitions. It also argues that the Director's decision on a substantial factual issue - whether the petition-for employees maintain a community of interest with the broader Local 97 unit - is clearly erroneous on the record and prejudicially affects Local 97's rights. In the alternative to reversing the Director's decision, Local 97

asserts that a hearing should be granted pursuant to N.J.A.C. 19:11-2.6 because a material factual issue exists.

Although UH did not file a response to Local 97's request for review, we summarize the arguments made in its brief to the Director opposing the severance petition. UH disputes that the differences cited by Local 97 between the petitioned-for employees and the broader Local 97 unit are significant. UH asserts that many Local 97 employees work at different job locations because the UH campus is comprised of multiple separate buildings, and that paramedics and EMTs are at the UH Emergency Department almost daily when they bring patients in. UH asserts that many different employees within Local 97 wear different uniforms in different colors. UH asserts that every department has a clear reporting structure with a chain of command and differing levels of supervisors. UH asserts that many Local 97 unit employees at UH are required to be licensed or certified to keep their jobs (e.g., lab team members, radiology technicians, patient care technicians, emergency department technicians). UH asserts that many Local 97 employees encounter difficult interactions with patients because it is a Level 1 trauma center handling many emergency patients. Regarding different work hours, UH asserts that it is open 24 hours a day every day, so there are always Local 97 employees working at any hour. Finally, UH argues that its hiring of many new paramedics, EMTs,

and dispatchers over the past year does not constitute changed circumstances affecting community of interest.

Pursuant to N.J.A.C. 19:11-8.2(a), "a request for review will be granted only for one or more of these compelling reasons:"

1. A substantial question of law is raised concerning the interpretation or administration of the Act or these rules;
2. The Director of Representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
3. The conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
4. An important Commission rule or policy should be reconsidered.

We deny Local 97's request for review as it has not advanced any compelling reasons to review the Director's findings or conclusions.

First, Local 97 has not identified any "substantial factual issue" decided by the Director that could be considered "clearly erroneous" or that would have required him to convene an evidentiary hearing.<sup>1/</sup> Rather, Local 97's alleged factual issue

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1/ N.J.A.C. 19:11-2.6(f) provides: "A hearing shall be conducted:

1. If it appears to the Director of Representation that substantial and material factual issues exist which, in the exercise of reasonable discretion, may more appropriately be  
(continued...)

of whether there remains a sufficient community of interest between the petitioned-for employees and the broader Local 97 unit is actually an objection to the Director's legal analysis, in which he applied the Commission's "community of interest" standards to the facts supplied by Local 97. The Director fully considered all of the differences in job duties and conditions of employment raised by Local 97. Regarding the certifications and licenses required for certain titles within the petitioned-for employees, the Director determined that it did not impact community of interest because many job titles in the broader Local 97 unit also require special licenses. Furthermore, within the petitioned-for employees, different licenses are required for different titles. The Director similarly found that working at different work locations, wearing different uniforms, having clear reporting structures, having difficult interactions with patients, and having different work schedules, are not job conditions unique to the petitioned-for employees as compared to the broader Local 97 unit, and are not uniform among the petitioned-for employees.

Moreover, the Director held:

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- 1/ (...continued)  
resolved after a hearing; or  
2. If it appears to the Director of Representation that the particular circumstances of the case are such that, in the exercise of reasonable discretion, the Director determines that a hearing will best serve the interests of administrative convenience and efficiency."

But even if the differences were shared only with the petitioned-for employees, after thoroughly considering the differences asserted, I do not find them to detract from a finding of a continued community of interest with the broad-based unit, even if there is a "stronger" community of interest among the petitioned-for employees.

[Director's Letter, p. 3.]

The Director applied pertinent Commission precedent in support of his determination that community of interest can exist even where there are differences in work locations, hours, uniforms, training, supervision, job duties, and a lack of interchange. See, e.g., Hamilton Tp., D.R. No. 2022-4, 49 NJPER 49 (¶10 2022) (community of interest existed among EMTs, dispatchers, white-collar employees, and blue-collar employees); E. Windsor Tp., D.R. No. 97-2, 22 NJPER 348 (¶27180 1996), req. for rev. denied P.E.R.C. No. 97-68, 23 NJPER 51 (¶28035 1996) (community of interest found despite differences in hours, schedules, work facilities, uniform requirements, and training; lack of interchange of duties and infrequent interaction; and different immediate supervisors). He thus found that the petitioned-for employees and the other Local 97 unit employees "have an even stronger community of interest than the dispatchers and the white-collar and blue-collar municipal employees in Hamilton Tp., as all of the employees in the UH unit are working in support [of] the UH's mission of providing care to patients."

The Director also considered Local 97's reliance on Belleville Bd. of Ed., D.R. No. 86-23, 12 NJPER 482 (¶17184 1986) for the proposition that changed circumstances or a substantial change in job duties may create a lack of community interest and provide the basis for removing titles from an existing unit. The change in circumstances proffered by Local 97 as warranting a finding of a lack of community of interest and severance was UH's hiring of almost 100 new paramedics, EMTs, and dispatchers in recent years, approximately doubling the number of petitioned-for employees to 187. Although we acknowledge Local 97's argument that the greater numbers in the proposed new unit may help them survive and have their own negotiating power as a stand-alone unit, we concur with the Director's conclusion that the increased numbers of petitioned-for employees did not change the factors that are relevant for determining whether there is still a community of interest with the existing Local 97 unit. The Commission's preference for broad-based units and reluctance to form units along occupational or departmental lines is well established. State v. Professional Ass'n of N.J. Dept. of Ed., 64 N.J. 231 (1974); see also Egg Harbor Tp., D.R. No. 2009-5, 34 NJPER 416 (¶128 2008); Gloucester Cty., P.E.R.C. No. 2011-69, 37 NJPER 141 (¶42 2011) (new EMTs shared a community of interest with the County's broad-based CWA unit and should not be a stand-alone unit, despite union's arguments that they are emergency



first responders, exposed to the hazards of emergency situations, and are anticipated to grow in numbers).

Finally, in addition to consideration of the Commission's community of interest standards and preference for broad-based units discussed above, we agree with the Director that this case is distinguishable from City of Passaic, D.R. No. 2004-1, 29 NJPER 393 (¶125 2003), raised by Local 97. Here, unlike in Passaic, severance would not be appropriate because the petitioned-for employees have long been represented in a broad unit, UH has an interest in continuation of the existing broad-based unit, and there has been no agreement between UH and Local 97 to exclude them.

Based on the foregoing, we find that Local 97 has failed to demonstrate any compelling reason warranting review of the Director's determination.

ORDER

Teamsters Local 97's request for review is denied.

BY ORDER OF THE COMMISSION

Chair Weisblatt, Commissioners Bonanni, Ford, Papero and Voos voted in favor of this decision. None opposed.

ISSUED: May 25, 2023

Trenton. New Jersey