

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

In the Matter of

CAPE MAY COUNTY MOSQUITO
EXTERMINATION COMMISSION,

Public Employer,

-and-

DOCKET NO. RO-81-49

CAPE MAY COUNTY MOSQUITO
EXTERMINATION COMMISSION EMPLOYEES,

Petitioner,

-and-

LOCAL 1983, CIVIL & PUBLIC EMPLOYEES
OF CAPE MAY, N.J., INTERNATIONAL
BROTHERHOOD OF PAINTERS & ALLIED
TRADES, AFL-CIO,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election to be conducted among certain employees of the Mosquito Commission. The Director notes the absence of any substantial and disputed factual issues placed before the Commission.

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Appearances:

For the Public Employer
McGinnis Associates
(William McGinnis, Consultant)

For the Petitioner
Eric Hemstedt, Representative

For the Intervenor
Bruce Gorman, attorney

DECISION AND DIRECTION OF ELECTION

On September 17, 1980, a Petition for Certification of Public Employee Representative, accompanied by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission"), by Cape May County Mosquito Extermination Commission Employees (the "Petitioner"),

seeking to represent all blue collar and white collar non-professional employees of the Cape May County Mosquito Extermination Commission (the "Employer").

Local 1983, International Brotherhood of Painters and Allied Trades, AFL-CIO ("Local 1983") has intervened pursuant to N.J.A.C. 19:11-2.7 on the basis of a recently expired agreement with the Employer covering the employees involved. The undersigned has caused an administrative investigation to be conducted into the matters involved in the Petition in order to determine the facts.

Based upon 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. The Cape May County Mosquito Extermination Commission 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. Cape May County Mosquito Extermination Commission Employees and Local 1983, Civil and Public Employees of Cape

May County, N.J., International Brotherhood of Painters and Allied Trades, AFL-CIO, are employee representatives within the meaning of the Act and subject to its provisions.

4. On September 17, 1980, Petitioner filed a Petition for Certification of Public Employee Representative seeking to represent a unit of all blue collar and white collar nonprofessional employees of the Mosquito Commission. Local 1983 is currently the exclusive representative of a unit consisting of these employees.

5. The Petitioner and the Employer agree to the conduct of a secret ballot election among the petitioned-for employees. Local 1983 has not consented to an election, but has not advanced any statement in support of a claim that an election should not be conducted.

6. Local 1983 filed an Unfair Practice Charge against the Employer on March 28, 1980, alleging that its shop steward was terminated March 24, 1980, due to his exercise of protected activities. Local 1983 has not requested that the conduct alleged in the Charge should be viewed as a "block" to an election. Local 1983 has been advised that if it desires that its Charge be accorded blocking effect it must submit documentary evidence and a statement of position in support of such request. However, although advised of its responsibilities in this regard, Local 1983 has not submitted such material. See In re Village of Ridgewood, D.R. No. 81-17, 6 NJPER 605 (¶ 11300 1980).

7. By letter dated December 8, 1980, the undersigned advised the parties that a valid question concerning representation existed in an appropriate unit. The undersigned further stated that in the absence of the presentation of substantial and material disputed factual issues warranting the convening of an evidentiary hearing, a decision and direction of election would issue. Other than a statement of concurrence from the Employer, the undersigned has not received responses to the December 8, 1980 correspondence.

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 this matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds that the appropriate unit for collective negotiations is: All blue collar and white collar nonprofessional employees, of the Cape May County Mosquito Extermination Commission, but excluding managerial executives, professional, confidential and craft employees, police and supervisors 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 the 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 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 the undersigned and with the Cape May County Mosquito Extermination Commission Employees and with Local 1983, Civil & Public Employees of Cape May, N.J., International Brotherhood of Painters and Allied Trades, AFL-CIO, 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. 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 the Cape May County Mosquito Extermination Commission Employees and with Local 1983 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 or not they desire to be represented for the purpose of collective negotiations by Cape May County Mosquito Extermination Commission Employees, or Local 1983, Civil & Public Employees

of Cape May, N.J., International Brotherhood of Painters and Allied Trades, AFL-CIO, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Carl Kurtzman, Director

DATED: January 6, 1981
Trenton, New Jersey