

D.R. NO. 84-17

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE ADMINISTRATOR OF REPRESENTATION PROCEEDINGS

In the Matter of

CAMDEN COUNTY PARK COMMISSION,

Public Employer,

-and-

DOCKET NO. CU-84-20

AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO, COUNCIL 71,

Employee Representative.

SYNOPSIS

The Administrator of Representation Proceedings clarifies an existing collective negotiations unit of blue collar employees by confirming the exclusion of certain foremen who are supervisors within the meaning of the Act. The Administrator's determination was based on the administrative investigation, wherein the majority representative did not oppose the Employer's factual argument and positional statements.

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DECISION

On September 28, 1983, a Petition for Clarification of Unit was filed with the Public Employment Relations Commission ("Commission") by the Camden County Park Commission ("Park Commission") raising a question concerning the composition of a collective negotiations unit of blue collar employees, represented by the American Federation of State, County and Municipal Employees, AFLCIO, Council 71 ("AFSCME"). Specifically, the Park Commission seeks a determination that employees in the following titles are excluded from the nonsupervisory employee unit:

Maintenance Repair Foreman  
Equipment Operator Foreman-Parks  
Groundskeeper Foreman

The Park Commission alleges in its Petition that the foremen are supervisors within the meaning of the Act, <sup>1/</sup> and, therefore, are

1/ The New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4 defines the term "supervisor" as an employee "... having the power to hire, discharge, discipline, or to effectively recommend the same...."

excluded from the collective negotiations unit.

The undersigned has caused an administrative investigation to be conducted in order to determine the facts. By letters dated September 30 and October 19, 1983, Council 71 was advised that a Petition for Clarification of Unit had been filed, and was provided an opportunity to submit a statement of position concerning the clarification petition. As part of the administrative investigation, the assigned Commission staff agent convened an informal conference on October 19. The Parks Commission attended the conference. AFSCME declined to participate in the conference.

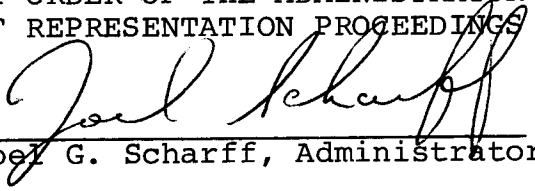
The Parks Commission asserts that the employees involved herein are supervisors within the meaning of the Act, inasmuch as: (a) they have the authority to discipline employees in the blue collar unit; (b) they have, on occasion, actually effectuated disciplinary measures; (c) they perform written evaluations of employees under their respective divisions, including annual civil service evaluations and the civil service evaluation at the end of a new employee's probationary period; (d) foremen are the first step of the contractual grievance procedure; (e) foremen have made recommendations with regard to hiring of new employees; and (f) foremen direct the day-to-day work activities of those employees within their respective divisions.

By letter dated December 5, 1983, AFSCME was advised that, to date, it had not proffered any representational claim with respect to the employees who are the subject of the Petition,

nor had it submitted any statement of position relating to the proposed clarification. Further, AFSCME was specifically advised that if it failed to communicate with the Commission within five (5) days of receipt of the December 5 letter, its failure to respond would be interpreted as an acceptance of the exclusion of the above employees from the unit. AFSCME has not subsequently submitted any representational claim with respect to these employees nor has it filed a positional statement concerning the proposed clarification of unit.

Based on the foregoing, it would appear that the employees in the aforementioned foremen titles are supervisors within the meaning of the Act, and the blue collar unit is hereby clarified to reflect the exclusion of the Maintenance Repair Foreman, Equipment Operator Foreman-Parks and Groundskeeper Foreman from the unit.

BY ORDER OF THE ADMINISTRATOR  
OF REPRESENTATION PROCEEDINGS

  
Joel G. Scharff, Administrator

DATED: January 20, 1984  
Trenton, New Jersey