

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS

Public Employer

and

Docket Nos. RO-53
RO-55

LOCAL No. 821, UNITED BROTHERHOOD OF CARPENTERS,
AND JOINERS OF AMERICA, AFL-CIO

Petitioner

DECISION


Pursuant to an Order Consolidating Cases and a Notice of Representation Hearing, a hearing was held on May 4, 1970, before Hearing Officer Howard M. Golob at which all parties were given an opportunity to present evidence, examine and cross-examine witnesses, to argue orally, and to file briefs. On June 26, 1970 the Hearing Officer issued his Report and Recommendations. Neither party filed exceptions to the Hearing Officer's Report and Recommendations.

The Executive Director has considered the record and the Hearing Officer's Report and Recommendations and, on the basis of the record in this case, finds:

1. Monmouth County Board of Chosen Freeholders is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. Local No. 821, United Brotherhood of Carpenters and Joiners of America, AFL-CIO is an employee representative within the meaning of the Act.

3. The Petitioner herein seeks representation for units of maintenance employees in the Park Department and maintenance employees of the Shade Tree Commission. The public employer has refused to recognize Petitioner as the representative for any employees involved in this proceeding. Therefore, a question exists concerning the representation of employees and the matter is appropriately before the Executive Director for determination.
4. In the absence of exceptions to the Report and Recommendations of the Hearing Officer, attached hereto and made a part hereof, the undersigned adopts the findings and recommendation of the Hearing Officer, pro forma. 1/

Since the units herein sought are not found to be appropriate the petitions are hereby dismissed.


Maurice J. Neilligan, Jr.
Acting Executive Director

DATED: July 29, 1970
Trenton, New Jersey

1/ The inadvertent reference in the Hearing Officer's report to a Commission form of government in the County of Monmouth is hereby corrected. The governing body in the County of Monmouth is the Board of Chosen Freeholders.

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Petitioner

Appearances: William E. Russell, Esquire, of Middletown,
New Jersey for the Public Employer

Russell D. McNair, Business Manager, of
Springfield, New Jersey for the Petitioner

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

Pursuant to an Order Consolidating Cases and Notice of Representative Hearing issued by the Executive Director on April 3, 1970, a hearing was held on May 4, 1970 before the undersigned. At the hearing all parties were given an opportunity to examine and cross examine witnesses, present evidence, and to argue orally. The Hearing Officer has considered the entire record and finds:

1. Monmouth County Board of Chosen Freeholders is a public employer within the meaning of the New Jersey Employer-Employee Relations Act.

^{1/} As amended at the hearing

2. Local # 821, United Brotherhood of Carpenters and Joiners of America, AFL-CIO is an employee representative within the meaning of the New Jersey Employer-Employee Relations Act.

3. On or about December 30, 1969 the petitioner orally demanded recognition as the exclusive representative for the maintenance employees in the Park Department of the public employer (RO-53) and of the maintenance employees in the Shade Tree Commission (Docket No. RO-55).

The employer refused to recognize the petitioner as the exclusive representative. It claimed then and took such a position at the hearing that the unit is inappropriate, contending that the unit should be all maintenance employees of the Bridge, Park, Traffic and Highway Departments and the Shade Tree Commission.

At the hearing it also took the position that temporary employees do not have a community of interest with permanent employees and should not be included in the same unit.

The County of Monmouth is located in central New Jersey. It employs about 1150 employees in 59 departments. It has the Commission form of government, i.e. there are five elected commissioners who pass on all county business, though the responsibility for the operations of one particular department rests with one commissioner.

The maintenance employees are non-skilled. Though the education required for a Traffic Department employee is a minimum of 12 years or its equivalent, the requirement for the employees in the other departments is 8th grade or its equivalent. These employees receive the same fringe benefits,

i.e. hospitalization, vacation, holidays, work the same number of hours per day, and are covered by Civil Service including wages.

There is interchange of employees between departments. As some of the departments have seasonal peak loads, each department lends employees to the other departments, when needed. This is on a temporary basis, so as not to require a formal transfer with its incumbent paper work in order to comply with civil service requirements. Heavy equipment is also loaned from one department to the other department. In fact, the testimony revealed that on several occasions members of the Park Department were combined with members of the Shade Tree Commission under common supervision on the job to complete a particular task.

With regard to the eligibility of temporary employees, the evidence indicates that temporary employees are those who

1. are employed by the County prior to taking a civil service examination or
2. in the probationary period in the non-competitive area, i.e. where no civil service examination is given.

The temporary employees do the same work and have the same supervision, benefits and rights as the permanent employees, though the temporary employees may be discharged, disciplined or suspended without a hearing and may be bumped by a job applicant who has passed the civil service test.

ANALYSIS


The facts adduced at the hearing indicated that there is no departmental community of interest. The employees in all departments receive the same fringes and approximately the same wage scale. They are paid by the Board of Chosen

Freeholders, County of Monmouth and are administered by the same personnel department. There is interchange between departments so that there is no common supervision on a departmental level. Though an employee may be working most of the time under the aegis of one department supervisor and one freeholder-commissioner, the next day he may be loaned out to another department with its own supervision and its own freeholder-commissioner. After a period of time, he could go back to his old position. Accordingly, as the employee complement in each department is not clearly identifiable, I cannot recommend a departmental unit.

With regard to the question of permanent employees vis-a-vis temporary employees, it is evident that except for the situation where a person may be bumped by another individual who has passed the civil service examination or a probationary employee in a non-competitive classification, the terms and conditions of employment of the respective employees are identical. There is no justification for excluding temporary employees from the unit. It is noted that if a person fails to pass the competitive examination, he is not automatically dismissed.

RECOMMENDATIONS

Accordingly, based upon the foregoing, I recommend that the instant petition be dismissed as there is no community of interest among the employees of the Shade Tree Commission and the Park Department, separately or jointly. If, though, an election is directed, I recommend that temporary employees be included with the permanent employees as there is no real difference between the employees.


Howard M. Golob

DATED: June 26, 1970
Trenton, New Jersey