

L.D. NO. 90-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

COUNTY OF BERGEN
(BERGEN PINES COUNTY HOSPITAL,

-and-

INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO, LOCALS 68, 68A & 68B,

Docket No. LAP-90-4

-and-

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO,
COUNCIL 52, LOCAL 549.

Appearances:

For the County of Bergen
R.W. Kornfeld, Personnel Officer

For the International Union of Operating Engineers
Raymond Heineman, Esq.

For the American Federation of State, County & Municipal
Employees
Richard Gollin, Assoc. Director

LAP DECISION

On December 19, 1989, I conducted a Litigation Alternative Hearing with representatives of Locals 68, 68A and 68B of the International Union of Operating Engineers, AFL-CIO ("Local 68"), Local 549, Council 52 American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME") and the County of Bergen, Bergen Pines County Hospital ("Hospital"). The parties requested that I determine the proper unit placement of employees in the newly created title of Maintenance Mechanic. The parties have agreed to be bound by this decision.

The recognition clause of Local 68's contract with the Hospital provides:

The Board of Chosen Freeholders of Bergen County and the Hospital hereby recognize the International Union of Operating Engineers, AFL-CIO as the exclusive representative of the Stationary Engineers; Sr. Maintenance Repairers-HVAC and Refrigeration Mechanics who have provided the Hospital with signed requests to be represented by that Union.

The recognition clause of the contract between AFSCME and the Hospital provides:

The Hospital recognizes the Union as the sole and exclusive bargaining agent for the purpose of collective bargaining concerning wages; hours and working conditions of employees for all Blue Collar and Craft Employees and the reflected employees as set forth in Appendix "A" but, excluding all office clerical, other professional employees, policemen, managerial executives and employees in units previously certified by the Public Employment Relations Commission, all supervisors within the meaning of the Public Employment Relations Commission Act and all other employees.

Appendix A includes but is not limited to Plumber/Steamfitter, Sr. Maintenance Repairer, Speciality Mason/Tilesetter, Electrician, Welder and Carpenter.

On November 24, 1989, the Hospital announced that it planned to reorganize its Maintenance Department and intended to "consolidate several categories into one general classification", Maintenance Mechanic, effective December 31, 1989.

Four job titles were eliminated: Sr. Maintenance Repairer; Plumber/Steamfitter, Maintenance Repairer; Plumber/Steamfitter, Sr. Maintenance Repairer; HVAC and Refrigeration Mechanic. In all, 16 employees were reclassified.

Both Local 68 and AFSCME claim to represent this new title. Ten of the reclassified employees were represented by Local 68 and six were represented by AFSCME.

The Maintenance Mechanics are supervised by Maintenance Supervisor Richard Kildon. The Plumbing Supervisor [the title which supervised the Plumber/Steamfitters] has been eliminated and the Maintenance Manager title, which is currently vacant, will not be filled. Employees in the old Maintenance Repairer titles [Plumber/Steamfitter and Heating and Air Conditioning] worked together on the same equipment, although only the Plumber/Steamfitters would work on high pressure steam lines. The new Maintenance Mechanics will work side-by-side. They will report to work at the former Local 68 site and work under the supervision of Local 68 supervisors on the same shifts as Local 68 employees.

ANALYSIS

Local 68 argues that the Maintenance Mechanics should be placed in its unit on the basis of the following community of interest factors: work location, supervision, type of work performed and integration of work force with other employees in the Local 68 unit.

AFSCME argues the Maintenance Mechanics belong in its unit because the recognition clause of its contract states they represent all craft employees not already in other units.

An employer cannot simply change a title and thereby remove someone from a unit. There must be a significant change in circumstance or a substantial change in job duties. Tp. of Warren, D.R. No. 82-10, 7 NJPER 529 (¶12233 1981). A simple allegation by an employer is not sufficient to warrant a change in unit placement.

Here, those employees formerly performing the work of Sr. Maintenance Repairer; HVAC and Refrigeration Mechanic will be doing essentially the same work at the same location under the same supervision and general conditions. Nothing much has changed for these employees except their titles. Accordingly, these employees should remain in their Local 68 unit.

Essentially, the employer transferred the Maintenance Repairers, Plumbers/Steamfitters and Sr. Maintenance Repairer, Plumber/Steamfitter and their work so they could work directly with the Local 68 people under the jurisdiction of Local 68 supervisors. An employer does have the right to change unit structure to accomplish a significant governmental mission. See Borough of Park Ridge, D.R 86-6, 12 NJPER 37 (¶17014 1985) where employees were moved from one bargaining unit to another based upon a greater degree of community of interest. Employees there were added to an existing unit by a unit clarification without an election.

Here, the former Plumber/Steamfitters, who were in the AFSCME unit, share a greater community of interest with the Local 68 unit. It follows that these employees should be placed in the Local

68 unit.^{1/} The employer has the right to reorganize its employees and the Commission has the ultimate obligation in determining the most appropriate unit. See N.J.S.A. 34:13A-6.

The New Jersey Supreme Court, in State of New Jersey and Professional Assn. of N.J. Dept. of Education, 64 N.J. 231 (1974) decided that the Commission's responsibility, where more than possible unit of employees is appropriate, is to determine in each instance which unit of employees is most appropriate.

AFSCME's contract recognition clause does not include craft employees in Local 68A's unit. The recognition clause excludes, "employees in units previously certified by the Public Employment Relations Commission." However, Local 68's recognition clause states that Local 68 was voluntarily recognized as a majority representative. To the extent AFSCME's recognition clause does not accurately reflect the existence of a valid unit with craft employees, i.e., Local 68's, I do not believe the clause is determinative.

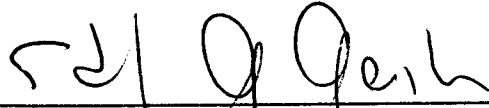
Here, on balance, I do not find AFSCME's recognition clause controlling or compelling. I find the former Plumber/Steamfitters belong in the new Maintenance Mechanics position in the unit with employees represented by Local 68.

^{1/} Contrast County of Passaic, P.E.R.C. No. 87-123, 13 NJPER 298 (¶18125 1987) when the Commission held that two units were never integrated and separate lines of supervision were maintained. Accordingly, the Commission preserved two separate units.

Accordingly, all Maintenance Mechanics are to be placed in the unit represented by Local 68.

AWARD

ALL Maintenance Mechanics are placed in the unit represented by the International Union of Operating Engineers, AFL-CIO, Locals 68, 68A and 68B.



Edmund G. Gerber
Commission Designee

DATED: February 7, 1990
Trenton, New Jersey