

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEW BRUNSWICK

Public Employer

and

Docket No. RO-43

NEW BRUNSWICK MUNICIPAL EMPLOYEES ASSOCIATION

Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the City of New Brunswick, a hearing was held on May 7, 1970 before Hearing Officer Sally Parker at which all parties were given an opportunity to examine and cross-examine witnesses, present evidence and to argue orally. Thereafter, on June 24, 1970, the Hearing Officer issued her Report and Recommendations. The Executive Director has considered the record and the Hearing Officer's Report and Recommendations and on the basis of the facts in this case finds:

1. The City of New Brunswick is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. New Brunswick Municipal Employees Association is an employee representative within the meaning of the Act.
3. The public employer having refused to recognize the employee representative as the exclusive representative of certain employees, a question concerning the representation of public employees exists and the matter is appropriately before the Executive Director for determination.

4. In the absence of Exceptions to the Hearing Officer's Report and Recommendations attached hereto and made a part hereof, the Executive Director adopts the Hearing Officer's findings and recommendations pro forma.
5. Accordingly, the Executive Director finds the appropriate collective negotiating unit is: "All School Crossing Guards employed by the City of New Brunswick excluding all professional employees, craft employees, supervisors within the meaning of the Act, policemen, managerial executives and all other employees."
6. The Executive Director directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth in Section 5 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 quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the New Brunswick Municipal Employees Association.

The majority representative shall be determined by a majority of the valid votes cast.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

  
Maurice J. Nelligan  
Acting Executive Director

DATED July 27, 1970  
Trenton, New Jersey

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEW BRUNSWICK

Public Employer

and

NEW BRUNSWICK MUNICIPAL EMPLOYEES ASSOCIATION

Petitioner

Docket No. RO-43

Appearances: Mr. John P. Miraglia for City of New Brunswick.

Ernest Gross, Esquire, for New Brunswick Municipal  
Employees Association

Witnesses for City of New Brunswick:

Lt. John W. Redmond  
Mr. Karl Thomas Valenti

Witnesses for New Brunswick Municipal Employees Association:

Mr. John T. Lepping  
Allettia J. Bellafronte

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

Pursuant to a Notice of Hearing issued by the Public Employment Relations Commission, a hearing was held on May 7, 1970, before the undersigned Hearing Officer of the Commission to resolve issues concerning the question of representation involved and to make a report and recommendation in the matter.

On the basis of the record it is determined:

1. The City of New Brunswick, referred to herein as the City, is a public employer within the meaning of the Act and is subject to the law's provisions.

2. The New Brunswick Municipal Employees Association, referred to herein as the Association, is an employee representative within the meaning of the Act.
3. The Association having requested of the City and the City having refused to recognize the Association as the exclusive representative of a unit of all School Crossing Guards, a question of representation of public employees exists, and the matter is appropriately before the Commission.
4. The sole question to be determined in this proceeding is whether the appropriate negotiating unit in the circumstances of this case includes the School Crossing Guard as part of the Police unit, or whether the School Crossing Guard alone shall here be in a separate negotiating unit.

Section 8(d) of the Act charges the Commission in resolving questions concerning representation to "decide in each instance which unit of employees is appropriate for collective negotiation"; in addition to the negative criteria set forth in Section 8(d), the only criteria explicitly specified to give guidance in determining the appropriate unit is that in Section 7: "The negotiating unit shall be defined with due regard for the community of interest among the employees concerned".

#### Community of Interest

The fact that the School Crossing Guards and the Police involved in this case are employed by the same public employer does not in and of itself establish a general community of interest between the two categories. Indeed evidence establishes little community of interest among these employees of a common employer:

Of primary importance is the fact that they have dissimilar

powers: Unlike the Police, the School Crossing Guards do not make arrests (except a citizen's arrest), or carry guns. The guards wear uniforms but both the badge they wear and the uniform are those of 'special police', who "shall not be members of the Police Department of this City".<sup>1/</sup>

Also of interest are the following contrasts between the categories:

They have dissimilar qualifying requirements: The Police must pass a Civil Service examination; they must meet age, height, weight requirements; they have a residency requirement. Crossing Guards are not required to pass an examination, and they are not required to meet the age, height, weight and residency requirements of Police.

As to job duties, calendar, hours of work, and payment there are great differences between the two categories: School Crossing Guards "stay at the schools, and are positioned at certain areas to see that the school children are crossed across the street safely"; they work 193 days a year, from two to three and one-half hours a day, and are paid a daily rate of \$12 or \$2300 a year, if they work every day. Police Officers, employed by the City of New Brunswick, are not part-time and are paid a minimum annual salary of \$7800.

The Police and Guards are paid on different payrolls. In addition, during the summer four guards work for the Park Department, and are paid out of the recreation budget.

While the Crossing Guards are covered by Blue Cross, Blue Shield and Rider J. like the Police and other City employees, unlike the Police, they do not have holidays or vacations.

---

<sup>1/</sup> Rules for the Government of Special Police Officers - Adopted by Board of Commissioners of the City of New Brunswick, New Jersey, January 17, 1928.

The School Crossing Guard is a single title with no promotional opportunity; the line of promotion possible for the Police is indicated by the titles within their occupational group, i.e., patrolman, sergeant, lieutenant, captian, assistant chief and chief.

Training for the Guards consists of two or three days 'on-the-job' training; the police recruits go for three months to the Police Academy.

This is not to say that there are not areas of likeness between the categories: clearly, there will be common supervision.

In grievance handling, too, it may be assumed that there might be similarities with the police procedure; however, this is conjecture since the record shows no evidence of any grievance handling or any grievance procedure for Crossing Guards or Police.

#### DISCUSSION AND FINDINGS

The City instances their exclusion from the overall city employee unit in New Brunswick as in itself showing that School Crossing Guards have no community of interest with this group. The community of interest which Crossing Guards have with other city employees in New Brunswick is not in question. However, their exclusion by the petitioner from the city employee unit sought in New Brunswick does not argue necessarily for a finding which would place them with Police.

The City has cited Commission Decision No. 32 (Atlantic County and Atlantic County Detectives and Investigators Association) in support of their position.

In this case the Commission determination is one of finding that the greatest community of interest existed in a unit which combined county investigators and detectives, on the one hand, with county under-sheriffs and deputy sheriffs, on the other. The Hearing Officer's report states that

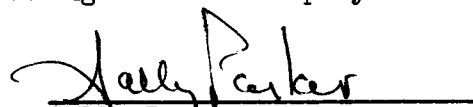
"The duties of both groups are involved generally in the administration of justice. Both have duties ancillary to this purpose." He further observes that "The same sort of person is recruited for both categories of positions." He notes that there is a difference of \$1000 between the salary of detective and deputy sheriff. Both categories are "qualified on firearms", and both take Civil Service exams.

The evidence does not indicate that we are faced with a parallel situation, School Crossing Guards vis-a-vis Police in New Brunswick. While the School Crossing Guard does not carry firearms, neither is she qualified on firearms. The same sort of person would not be recruited for both positions. She is not involved in a general or specific way in the administration of justice or duties ancillary to this purpose. Her job is simply that of shepherding school children safely across the street and directing traffic to accomplish this end.

C. 34:13A-513 of the Act provides that "no policeman shall have the right to join an employee organization that admits employees other than policemen to membership". However, here our finding is that School Crossing Guards are not Police; accordingly, the admission of employees other than police to membership in the New Brunswick Municipal Employees Association is not an issue.

#### RECOMMENDATION

I hereby recommend that the appropriate unit for the purposes of collective negotiations between the City of New Brunswick and the New Brunswick Municipal Employees Association be composed of all School Crossing Guards employed by the City of New Brunswick, excluding all other employees.

  
Sally Parker  
Hearing Officer

Dated: June 24, 1970  
Trenton, New Jersey