

D.R. No. 2010-2

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

In the Matter of

CITY OF PERTH AMBOY,

Public Employer,

-and-

Docket No. RO-2009-087

FIREMEN'S BENEVOLENT ASSOCIATION
NAGE LOCAL R2-343/SEIU 5000,

Petitioner.

SYNOPSIS

The Director of Representation orders that Firemen's Benevolent Association NAGE Local R2-343/SEIU 5000 (FMBA) be certified as the exclusive representative of non-supervisory 911 emergency dispatchers employed by the City of Perth Amboy, based upon a card check. The City did not object to the FMBA's petition but refused to sign a Stipulation of Appropriate Unit. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and the Petitioner complied with the card check rules, the Director certified the FMBA as the majority representative for the unit in question.

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Petitioner.

Appearances:

For the Public Employer,
Jane D. Feigenbaum, Business Administrator

For the Petitioner,
Fox and Fox, LLC, attorneys
(Craig Gumpel, of counsel)

DECISION

On April 28, 2009, the Firemen's Benevolent Association NAGE Local R2-343/SEIU 5000 (FMBA) filed a representation petition for card check certification seeking a unit of "911 emergency dispatchers" employed by the City of Perth Amboy (City). The petition was accompanied by authorization cards from a majority of the petitioned-for unit employees. No other labor organization claimed interest in representing the employees.

The City has not objected to the FMBA's petition but refuses to sign a Stipulation of Appropriate Unit form allowing continued processing of the petition.

We have conducted an administrative investigation to determine the facts. N.J.A.C. 19:1-2.2. On June 4, 2009, I wrote to the parties, advising them of my tentative findings and conclusions and inviting responses. Neither party filed a reply. The disposition of the petition is properly based upon our administrative investigation. There are no substantial material facts in dispute which would require convening an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon the administrative investigation, I find the following facts:

On April 30, 2009, we provided Notices to Employees, advising that the FMBA filed a petition for certification by card check. The City has certified that it posted the notices for the required ten-day period. On May 11, 2009, at our request, the City filed a list of the petitioned-for employees. We have checked the submitted authorization cards against the names provided on the City's list and determined that a majority of unit employees have signed authorization cards for the FMBA.

On May 12, 2009, a Commission staff agent issued to the parties a proposed Stipulation of Appropriate Unit form setting forth the petitioned-for unit description with spaces allotted for the signatures of the designated representatives. On May 13,

2009, the City refused to discuss or sign the proposed stipulation.

ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3 to authorize the Commission to certify a majority representative where: (a) a majority of employees in an appropriate unit who have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. See N.J.A.C. 19:11-2.6(b).

The City has failed to respond to the FMBA's petition for card check certification and has not raised any objection nor filed any letter contesting the petition or the proposed Stipulation of Appropriate Unit.

The Legislature has determined that a check of an organization's authorization cards signed by a majority of employees in an appropriate unit is a lawful method to determine a majority representative. Our review of the FMBA's authorization cards shows that it has submitted cards from a majority of the petitioned-for employees. The employees' signatures on the cards meets the intent of the statute and the rules. Accordingly, the FMBA is entitled to a certification based upon a card check, regardless of the City's failure to submit a signed Stipulation of Appropriate Unit. See Passaic

County Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic County Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

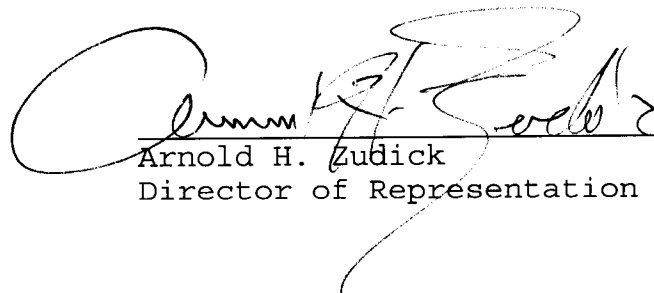
I find that the following unit is appropriate:

Included: All regularly employed non-supervisory 911 emergency dispatchers employed by the City of Perth Amboy.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, police employees, casual employees, and all other employees of the City of Perth Amboy.

ORDER

I certify the Firemen's Benevolent Association NAGE Local R2-343/SEIU 5000 as the exclusive representative of the unit described above, based upon its authorization cards^{1/}.


Arnold H. Zudick
Director of Representation

DATED: July 10, 2009
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by July 20, 2009.

^{1/} The formal certification is attached.

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**CERTIFICATION OF REPRESENTATIVE
BASED UPON AUTHORIZATION CARDS**

In accordance with the New Jersey Employer-Employee Relations Act, as amended, and the Rules of the Public Employment Relations Commission, we have conducted an investigation into the Petition for Certification filed by the above-named Petitioner. The Petitioner has demonstrated by card check that a majority of the unit employees described below have designated the Petitioner as their exclusive representative for purposes of collective negotiations, and, no other employee organization has expressed a valid interest in representing these employees.

Accordingly, **IT IS HEREBY CERTIFIED** that

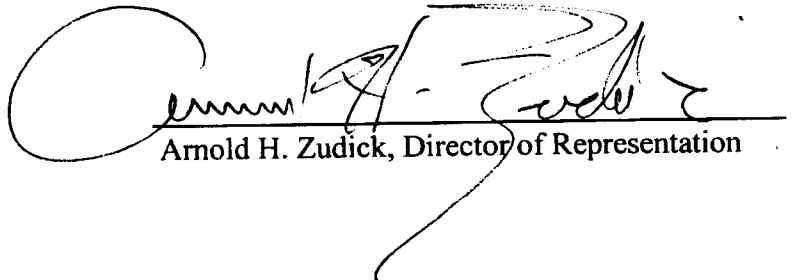
FIREMEN'S BENEVOLENT ASSOCIATION NAGE LOCAL R2-343/SEIU 5000

is now the exclusive representative of all the employees included below for the purposes of collective negotiations with respect to terms and conditions of employment. The representative is responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership. The representative and the above-named Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment as required by the Act.

UNIT: Included: All regularly employed non-supervisory 911 emergency dispatchers employed by the City of Perth Amboy.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, police employees, causal employees, and all other employees of the City of Perth Amboy

DATED: July 10, 2009
Trenton, New Jersey



Arnold H. Zudick, Director of Representation

Attachment:

Certification of Representative dated: July 10, 2009

In the Matter of

CITY OF PERTH AMBOY

-and-

FIREMEN'S BENEVOLENT ASSOCIATION
NAGE LOCAL R2-343/SEIU 5000

Docket No. RO-2009-087

Service on the following:

Jane D. Feigenbaum
Business Administrator
Perth Amboy
260 High St
Perth Amboy, NJ 08861

Craig Gumpel, Esq.
Fox & Fox
70 S Orange Ave.
Livingston, NJ 07039