

D.R. No. 2012-11

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

In the Matter of

JACKSON TOWNSHIP FIRE DISTRICT #2,

Public Employer,

-and-

Docket No. RO-2012-037

IAFF LOCAL 4395,

Petitioner.

SYNOPSIS

IAFF Local 4395 (Local 4395) filed a representation petition for card check certification seeking to add the title, senior clerk typist to its existing collective negotiations unit of all regularly employed nonsupervisory employees of the Jackson Township Fire District #2 (District). The petition was accompanied by an authorization card signed by the senior clerk typist. The Fire District opposed certification, claiming that the petition was filed without the approval of the employees in the unit. It refused to consent to the proposed stipulation of unit and did not provide a requested certification which attested to the posting of the requisite Notice to Public Employees.

The Director of Representation determined that in the context of this petition, Local 4395 was not obligated to demonstrate that a majority of employees in the unit approved of the petition. The Director also found that no facts suggested that adding another civilian title to a negotiations unit already comprised of a civilian title and firefighter titles rendered the unit inappropriate for collective negotiations.

Pursuant to N.J.A.C. 19:11-2.4(e), the Director noted that the Fire District's apparent failure to post the Notice to Public Employees for ten days would not impede certification of the unit.

The Director found that Local 4395 met the requirements of the Act and certified the unit based upon its authorization card from the senior clerk typist.

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Appearances:

For the Public Employer,  
Lane Biviano, attorney

For the Petitioner,  
Keith B. Kemery, Field Representative

DECISION

On December 9, 2011, IAFF Local 4395 (Local 4395) filed a representation petition for card check certification seeking to add the title, senior clerk typist to its existing collective negotiations unit of all regularly employed nonsupervisory employees of the Jackson Township Fire District #2 (District). The petition was accompanied by an authorization card signed by the senior clerk typist.

The Fire District opposes certification, claiming that the petition was filed without the approval of the employees in the unit.

We have conducted an administrative investigation into this matter to determine the facts. N.J.A.C. 19:1-2.2. By letter dated February 17, 2012, I advised the parties of my tentative findings and conclusions and invited responses. Neither party filed additional submissions.<sup>1/</sup> 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 make the following findings of fact:

On January 3, 2012 the Fire District was asked to submit a list of employees in the proposed unit and to certify that it posted for ten days a Notice to Public Employees, supplied by the Commission. The Notice informed employees that a petition for card check certification had been filed and it described the petitioned-for unit. On January 4, 2012, the parties were provided Stipulation of Appropriate Unit forms.

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<sup>1/</sup> The final sentence in the last paragraph of the February 17, 2012 letter inadvertently provided: ". . . in the absence of substantial and material factual disputes which would warrant convening an evidentiary hearing, a decision will issue ordering an election." It should have provided only: ". . . in the absence of any substantial and material factual disputes which would warrant convening an evidentiary hearing, a decision will issue **consistent with this letter.**"

In the interests of due process, by letter dated March 1, 2012, I extended the deadline for filing a reply until 5:00 p.m. on March 12, 2012. Neither party filed a response.

During a January 20, 2012 telephone conference, counsel to the Fire District advised that the District refused to consent to the proposed stipulation of unit, asserting that the petition was filed without the approval of the employees in the unit, which was currently comprised of four firefighters and a civilian fire prevention specialist. On January 27, 2012, the District filed a statement of position, together with a list of the employees in the proposed unit. It did not provide a requested certification which attested to the posting of the requisite Notice to Public Employees. On February 1, 2012, we wrote to the Fire District, again requesting that it provide the certification. It did not provide a certification.

We have checked Local 4395's authorization card against the Fire District's list and determined that the senior clerk typist signed an authorization card seeking to be represented by Local 4395.

#### ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, authorizing 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. N.J.A.C. 19:11-2.6(b).

Section 5.3 also provides that "a majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit. . ." We do not believe that Local 4395, in the context of this petition, is obligated to demonstrate that a majority of employees in the unit approve of the petition. Also, no facts suggest that adding another civilian title to a negotiations unit already comprised of a civilian title and firefighter titles renders the unit inappropriate for collective negotiations.

A union may seek to enlarge its unit by filing a representation petition requesting to add employees to that unit. The petition must be supported by a showing of interest from the employees sought to be added, and an election or card check is conducted among the group of employees to be accreted. Union County, D.R. No. 2007-7, 32 NJPER 408 (2007).

The Fire District's apparent failure to post the Notice to Public Employees for ten days shall not delay or invalidate any Commission action responding to the filing of the petition. N.J.A.C. 19:11-2.4(e).

Local 4395 has met the requirements of the Act and is entitled to certification based upon its authorization card from the senior clerk typist. N.J.S.A. 34:13A-5.3.

I find that the following unit is appropriate for collective negotiations:

Included: Senior clerk typist is added to the existing unit of all regularly employed nonsupervisory employees of Jackson Township Fire District #2.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; professional employees, craft employees, police, casual employees, and all others employed by Jackson Township Fire District #2.

ORDER

I certify IAFF Local 4395 as the exclusive representative of the unit described above, based upon its authorization card.<sup>2/</sup>

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

\_\_\_\_\_  
Gayl R. Mazuco

DATED: March 16, 2012  
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 March 26, 2012.**

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<sup>2/</sup> An appropriate Certification of Representative will issue with this decision.