

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

In the Matter of

BOROUGH OF LINDENWOLD,

Public Employer,

-and-

DOCKET NO. RO-79-151

TEAMSTERS LCOAL 676, a/w  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN,  
AND HELPERS OF AMERICA,

Petitioner.

SYNOPSIS

The Director of Representation, ruling upon challenges to the eligibility of individuals voting in a secret ballot election, determines that blue collar employees employed by the Borough under the federal Comprehensive Employment and Training Act are public employees employed by the Borough, share a community of interest with other Borough blue collar employees and are eligible voters. Therefore, the Director orders that the challenged ballots cast by CETA employees be opened and that a revised tally of the election results be issued.

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Petitioner.

Appearances:

For the Public Employer  
Eileen O'Neill, Borough Clerk

For the Petitioner  
Walter Bednarczyk, Representative

DECISION

Pursuant to an Agreement for Consent Election, a secret ballot election was conducted by the Public Employment Relations Commission (the "Commission") on February 9, 1979 among blue collar employees employed by the Borough of Lindenwold (the "Borough") in order to ascertain whether these employees desired or did not desire to be represented for the purpose of collective negotiations by Teamsters Local 676, International Brotherhood of Teamsters,

Chauffeurs, Warehousemen and Helpers of America ("Local 676"). <sup>1/</sup>  
The Tally of Ballots reflects that of approximately 19 eligible voters, 7 valid ballots were cast in favor of representation by Local 676, 7 valid ballots were cast against the participating employee representative, and 4 ballots were challenged. The challenged ballots are determinative of the results of the election.

The investigation as to the voting eligibility of the individuals who cast the challenged ballots has been conducted by the undersigned in accordance with the Agreement for Consent Election and pursuant to N.J.A.C. 19:11-9.3(k). All parties have been given the opportunity to provide documentary and other evidence as well as statements of position relating to the challenged ballots. The afore cited Commission rule provides, in relevant part, "After the administrative processing of the challenged ballots has been completed, or where appropriate the hearing process has been completed, the Director of Representation shall render an administrative determination which shall resolve the challenges and contain the appropriate administrative direction."

Based on the administrative investigation, the undersigned finds as follows:

1. The four individuals casting challenged ballots are blue collar employees employed under the federal Comprehensive Employment and Training Act ("CETA").

1/ In the Agreement for Consent Election, the parties described the collective negotiations unit as:

"Included: All blue collar employees employed by the Borough of Lindenwold.  
Excluded: Managerial executives, police, clerical employees, confidential employees, supervisors as defined in the Act, professional employees and craft employees."

2. The Borough asserts that these individuals are not employees of the Borough and, therefore, are not eligible to participate in the election.

3. Local 676 claims that these individuals are Borough employees, share a community of interest with other blue collar employees, and are eligible voters.

On March 9, 1979, the undersigned advised the parties of the following:

The Commission has in recent months thoroughly examined the issue of whether CETA employees are public employees within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act") and further, whether these employees share the requisite community of interest with other similarly situated employees of a public employer so that they would appropriately be part of the collective negotiations unit of the same description. See, for example, In re Township of Mine Hill, D.R. No. 79-4, 4 NJPER 297 (¶ 4148 1978) <sup>2/</sup> In re County of Somerset, D.R. No. 79-9, 4 NJPER 397 (¶ 4179 1978); and In re County of Hudson, D.R. No. 79-3, 4 NJPER 204 (¶ 4147 1978); and In re County of Passaic, D.R. No. 78-29, 4 NJPER 8 (¶ 4006 1977). In each instance, the Commission has found that individuals employed under the Comprehensive Employment and Training Act are public employees within the meaning of the Act and that, when such employees function in capacities similar to regular municipal employees, these employees share a community of interest with regular employees of the municipality.

The undersigned further advised that in the absence of the presentation of additional evidence, as well as statements of position, raising in dispute substantial and material factual issues and which would distinguish the matter herein from the findings of the above enumerated decisions, the undersigned would issue a decision

<sup>2/</sup> Request for Review den., P.E.R.C. No. 79-8, 4 NJPER 416 (¶ 4186 1978).

consistent with those previous decisions and, therefore, rule that the challenged ballots cast by the four CETA voters are valid and that the ballots of the eligible voters should be counted.

Neither the Borough nor Local 676 have provided additional evidence or statements of position in response to the undersigned's communication. Accordingly, the undersigned determines, pursuant to N.J.A.C. 19:11-9.3(k), that an evidentiary hearing is not necessary in this matter and that the dispute as to the eligibility of the four challenged employees may be resolved in accordance with the administrative investigation herein.

The undersigned determines, for the reasons stated above, that the four employees, whose eligibility has been challenged by the Borough, are employed by the Borough of Lindenwold, share a community of interest with other Borough blue collar employees, and are eligible voters in the instant election. Therefore, their ballots shall be opened, a revised Tally of Ballots shall be issued, and, thereafter, the undersigned shall provide the appropriate certification in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: April 6, 1979  
Trenton, New Jersey