

E.D. NO. 70

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF STAFFORD,

Public Employer,

and

Docket No. RO-968

COMMUNICATIONS WORKERS OF AMERICA,  
AFL-CIO,

Petitioner.

SYNOPSIS

The Executive Director certifies the Communications Workers of America, AFL-CIO as the majority representative of all blue-collar employees of the Township of Stafford after dismissing objections to the election which had been filed by the Public Employer. The objections were not substantiated although probative evidence was solicited.

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DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to an Agreement for Consent Election, a secret ballot election was held on February 28, 1975 for employees in an appropriate unit. <sup>1/</sup> The tally of ballots reveals that of approximately 30 eligible voters, 20 ballots were cast for the Communications Workers of America and 5 ballots were cast against the participating employee representative. Four ballots were challenged. The challenges are not sufficient in number to affect the results of the election. The Township of Stafford (Public Employer) filed timely objection to the election. In its letter, which it describes as official notice of objection to the election, the Public Employer states that, "We hereby challenge the election on the following basis:

1. Two former employees were permitted to enter the polling place along with regular employees and participated in the voting procedure although their ballots were challenged and held. We feel that their being present with the existing employees gave a false sense of security to the existing employees and also gave them the feeling that the Township would be forced to rehire the former employees under unionization. Despite the Mayor's objections, these employees, who were not on the list of eligible

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<sup>1/</sup> The negotiating unit is described as follows:  
Including: All blue collar employees employed by the Township of Stafford.  
Excluding: All other employees including police, managerial executives, confidential employees, craftsmen, professionals and supervisors within the meaning of the Act.

voters which was compiled by the Township and the Union in the presence of a State official, actually did vote.

2. The union held at least two meetings with the Township employees which were kept secret from other employees who had the right to vote and did, in fact, participate in the election, thereby denying their participation as employees in the discussions during those meetings, which could have led to a unanimous "no" vote preventing unionization of Stafford Township.
3. Several employees were misled, pressured and coerced to believe that if the union were not voted in, those employees who advocated it would be dismissed by the Township governing body.
4. The two former employees, that were permitted to vote, were present at the union meetings and told the existing employees that they would be voting in the election and that the union was going to get them their jobs back. This situation, in itself, had misled many employees to believe that the union could force the governing body to rehire these men even though they were dismissed for valid reasons and in effect, again misled the employees to think that the union could give them job security. In general terms, this act was solely responsible in coercing a majority of "yes" votes for the Union."

In accordance with the provisions of the Agreement for Consent Election which was signed by both parties and approved by the undersigned <sup>2/</sup> as well as the Commission's Rules, <sup>3/</sup> the undersigned has investigated the matter contained in the objections.

On March 19, 1975 the Public Employer was advised by letter that "...it is incumbent upon you to submit to the Commission Agent handling this matter probative evidence substantiating your objections within three working days after receipt of this letter; otherwise, objections may be deemed lacking in merit and dismissed."

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- <sup>2/</sup> Item 6 of the Agreement for Consent Election provides that: "The Executive Director shall conduct an investigation of the matters contained in the objections and shall, where appropriate, issue a notice of hearing designating a hearing officer to hear the matters alleged.... The objecting party shall bear the burden of proof regarding all matters alleged in the objections.... The method of investigation of objections and challenges, including the question of whether a hearing should be held in connection therewith, shall be a final administrative determination unless the Commission shall have granted a request for review." (Emphasis added)
- <sup>3/</sup> N.J.A.C. 19:11-2.4 provides that: "Where objections are filed..., the Executive Director shall conduct an investigation and shall, where appropriate issue a notice of hearing.... The objecting party shall bear the burden of proof regarding all matters alleged in the objections....."

On March 24, 1975, the Commission received a copy of a letter from the Mayor addressed to the Solicitor of Stafford Township. In that letter, the Mayor suggests that the time for filing requested information be extended. To date, no representative of the Township has supplied the probative evidence requested nor have we received a request for an extension of time within which to file the requested evidence.

The investigating agent has made several efforts to contact the Township Solicitor. Finally, on April 7, 1975, he succeeded in speaking to the Solicitor, indicating that the objections were unsubstantiated and that we were in receipt of no request for an extension of time within which to supply the evidence requested.

Based upon the above and in accordance with the policy of the Commission, <sup>4/</sup> the undersigned concludes that the objection should be and hereby are dismissed. It is not reasonable to withhold further the certification of the results of the instant election. As stated above, the election was held February 28, 1975. Objections were received March 4, 1975. Probative evidence was requested within three days of receipt of a letter dated March 19, 1975. No probative evidence supporting the objections has been submitted and the objections remain unsubstantiated. Therefore, the undersigned will certify the Petitioner.

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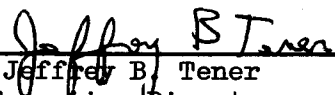
<sup>4/</sup> See State of New Jersey et al, P.E.R.C. No. 76 (April 28, 1973) in which, at page 8, the Commission stated: "The Commission does not believe that the mere claim of objectionable conduct, unsupported in the investigative stage by any evidence should thereby entitle the objecting party to a hearing, or, alternatively, that a claim for which the evidence presented is found to be insufficient support for the objection, should create a right to a hearing. If there is to be protracted delay of the certification of the election's results, there should be some reasonable basis which would warrant such delay in the first instances. The Commission believes that the presentation of evidence raising substantial questions of fact is a reasonably imposed precondition to the holding of a hearing. The failure of the objecting party to satisfy such conditions should permit the Commission to proceed to certify the outcome of the election."

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the undersigned in accordance with the New Jersey Employer-Employee Relations Act, as amended, and Chapter 11 of the Commission's Rules and Regulations; and it appearing from the Tally of Ballots that an exclusive representative for collective negotiations has been selected:

Pursuant to authority vested in the undersigned, IT IS HEREBY CERTIFIED that Communications Workers of America, AFL-CIO, has been designated and selected by a majority of the employees of the Township of Stafford, in the unit of all blue collar employees employed by the Township of Stafford, excluding all other employees including police, managerial executives, confidential employees, craftsmen, professionals and supervisors within the meaning of the Act, as their representative for the purposes of collective negotiations, and that pursuant to the New Jersey Employer-Employee Relations Act, as amended, the said representative is the exclusive representative of all the employees in such unit for the purposes of collective negotiations with respect to terms and conditions of employment. Pursuant to the Act, the said representative shall be responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership; the said representative and the above-named Public Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment; when an agreement is reached it shall be embodied in writing and signed by the parties; and written policies setting forth grievance procedures shall be negotiated and shall be included in any agreement.

BY ORDER OF THE EXECUTIVE DIRECTOR

  
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Jeffrey B. Tener  
Executive Director

DATED: April 14, 1975  
Trenton, New Jersey