

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

In the Matter of

COUNTY OF MORRIS (MORRIS COUNTY
BRIDGE DEPARTMENT),

Public Employer,

-and-

DOCKET NO. RO-81-80

TEAMSTERS LOCAL NO. 11,

Petitioner,

-and-

MORRIS COUNCIL NO. 6, NEW
JERSEY CIVIL SERVICE ASSOCIATION,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a Petition filed on behalf of production and maintenance employees in the County Bridge Department for a negotiations union. The Director finds no sufficient basis for these employees to be severed from an existing overall unit of county employees. Although the Petitioner argued that the Bridge Department employees have in the past conducted their own negotiations and processed their own grievances, these issues relate to the manner in which the existing representative administer the negotiations unit. The Director concludes that the standards concerning improper representation adopted by the Commission to support a severance petition are not present.

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Appearances:

For the Public Employer
Harper & O'Brien, attorneys
(John J. Harper of counsel)

For the Petitioner
Schneider, Cohen, Solomon & DeMarzia, attorneys
(Bruce D. Leder of counsel)

For the Intervenor
Morris & Hantman, attorneys
(Allen Hantman of counsel)

DECISION

On October 11, 1980, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by Teamsters Local

No. 11 (the "Teamsters") with respect to a unit of production and maintenance employees in the Bridge Department of the County of Morris (the "County").

In accordance with N.J.A.C. 19:11-2.2(a), the undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts.

By letter dated October 10, 1980, Morris Council #6, New Jersey Civil Service Association (the "CSA") filed a motion to intervene herein. CSA has provided the Commission with a copy of a collective negotiations agreement between CSA and the County, which covers the petitioned-for employees. CSA's motion to intervene is hereby approved.

On October 24, 1980, a conference was held by the assigned Commission staff agent at which the Teamsters failed to appear.

Based upon the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The County of Morris is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of the Petition, and is subject to the provisions of the Act.

3. Teamsters Local No. 11 and Mercer Council #6, New Jersey Civil Service Association are employee representatives within the meaning of the Act and are subject to its provisions.

4. The petitioned-for employees appear to be currently represented by CSA in an overall unit of county employees. 1/

5. The County and CSA have indicated that they will not consent to a secret ballot election herein. They contend that the petitioned-for employees are and have been represented for the purpose of collective bargaining in the unit represented by CSA. They further contend that no justification exists for severing the petitioned-for employees from the existing unit and that the existing unit is the most appropriate unit. They request that the instant Petition be dismissed.

1/ As alleged proof of the existence of a separate collective negotiations agreement covering a unit of bridge department employees, the Teamsters have submitted a copy of an addendum to the master contract between the County and the CSA. This document is one of the several addenda between the County and the CSA dealing with the unique needs of employees of various departments. As opposed to a separate and distinct contract concerning the employees of the bridge department, this addendum is supplemental to the master agreement.

6. The Teamsters have not alleged that CSA has breached its duty to fairly represent the employees in the petitioned-for unit.

All parties have been apprised of the Commission's policy of favoring the establishment of broad-based functional units and rejecting claims for narrowly defined units based on specific occupational or departmental distinctions. The parties have been advised of the Commission's standards for severing employees from an appropriate collective negotiations unit. ^{2/}

By letter dated December 18, 1980, the undersigned requested that the Teamsters withdraw the Petition without prejudice or, in the alternative, submit documentary or other evidence including a statement position, raising substantial and material factual issues which would warrant the convening of an evidentiary hearing. The Teamsters were

^{2/} In re Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971),
the Commission stated:

The underlying question is a policy one: assuming without deciding that a community of interest exists for the unit sought, should that consideration prevail and be permitted to disturb the existing relationship in the absence of a showing that such relationship is unstable or that the incumbent organization has not provided responsible representation. We think not. To hold otherwise would leave every unit open to re-definition simply on a showing that one sub-category of employees enjoyed a community of interest among themselves. Such a course would predictably lead to continuous agitation and uncertainty, would run counter to the statutory objective and would, for that matter, ignore that the existing relationship may also demonstrate its own community of interest.

advised that in the absence thereof, the undersigned would be inclined to dismiss the instant Petition. All parties were afforded an additional opportunity to respond to the December 18, 1980 correspondence.

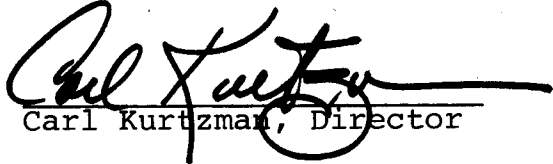
The Teamsters response, received January 8, 1981, does not allege improper representation by CSA. Rather, the Teamsters assert:

The employees of the Bridge Department have existed as a separate unit. These employees have consistently negotiated on their own behalf. Local 11 is ready, willing and able to produce witnesses and/or affidavits which aver that the terms and conditions of employment governing employees of the Bridge Department were negotiated by them, and not by anyone representing all County employees. Furthermore, these employees of the Bridge Department processed all grievances concerning disputes between themselves and the County.

No documentary evidence, as required by the undersigned, has been submitted by the Teamsters. Further, the Teamsters claim that CSA "represents the county-wide unit on a piecemeal basis, rather than as a unit as a whole" admittedly recognizes the existence of one countywide negotiations unit. Assuming the correctness of the Teamsters statements the circumstances posed merely describe the manner in which unit negotiations and grievance processing is administered by the CSA. These considerations do not support severance. Thus, there are no substantial and material factual issues in dispute herein which require the convening of an evidentiary hearing.

Accordingly, for the above reasons, the undersigned hereby dismisses the instant Petition.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: January 14, 1981
Trenton, New Jersey