

D.R. NO. 86-9

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

In the Matter of

BOROUGH OF INTERLAKEN,

Public Employer,

-and-

DOCKET NO. RO-86-39

NEW JERSEY STATE POLICEMEN'S
BENEVOLENT ASSOCIATION, LOCAL 57,

Petitioner.

SYNOPSIS

The Director of Representation orders an election in a unit consisting of all patrol officers and a single sergeant. The Borough refused to consent to the election, although the Borough did not assert any objective basis for its refusal to consent to the election. It appearing that the petitioned-for unit is appropriate, the Director concluded that an election should be conducted among the employees to determine their representational status.

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Appearances:

For the Public Employer
Carton, Nary, Witt & Arvanitis, Esqs.
(Robert Carton of counsel)

For the Petitioner
Robert J. Todd, Patrolman

DECISION AND DIRECTION OF ELECTION

On October 7, 1985, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission ("Commission") by the New Jersey State Policemen's Benevolent Association, Local 57 ("Petitioner" or "PBA"), which is seeking to represent certain employees employed by the Borough of Interlaken ("Borough"). By its petition, which is supported by an adequate showing of interest, the PBA seeks a collective negotiations

unit consisting of all patrol officers and sergeants. 1/

I have authorized an administrative investigation into the matters and allegations involved in the petition in order to determine the facts. See N.J.A.C. 19:11-2.2 and N.J.A.C. 19:11-2.6. On the basis of the administrative investigation, I find the following facts:

1. The disposition of this matter is properly based upon our administrative investigation, as we have not found any substantial and material factual disputes which may more appropriately be resolved at a hearing. See N.J.A.C. 19:11-2.6(b).

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

3. The New Jersey State Policemen's Benevolent Association, Local 57 is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Petitioner filed the instant petition on October 7, 1985.

5. The petitioned-for employees are not presently represented by any other employee representative.

6. The Petitioner contends that the petitioned-for unit constitutes a prima facie appropriate unit and that a secret ballot

1/ The Petitioner states that the Borough employs only one sergeant who works steadily on the midnight to 8 a.m. shift and only occasionally has any other patrolmen working with him.

election should be conducted in order to ascertain the free choice of the petitioned-for employees.

7. In correspondence dated October 15, 1985, the Borough indicated that "The Borough Council of the Borough of Interlaken is opposed to the representation of the employees by N.J.S.P.B.A., Local 57. There has never been any dispute between the governing body and the Police Department, there has been no negotiations and the claim of need for representation by Local 57 is totally unwarranted."

8. In correspondence dated October 31, 1985, I advised the Borough that I was inclined to issue a decision directing that a secret ballot election be conducted among the petitioned-for employees. I reminded the parties of their obligation to proffer any additional statements of position. Neither party chose to submit additional information.

N.J.S.A. 34:13A-5.3 provides in part:

Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity....

The Borough's expressed position that there has never been any dispute between the governing body and the police department does not constitute a sufficient basis to deny employees the representational rights guaranteed to them by §5.3 of the Act. The Borough has refused to consent to an election yet has set forth no

facts showing that the petitioned-for unit is inappropriate. See In re Borough of Haddonfield, D.R. No. 83-13, 8 NJPER 588 (¶ 13273 1982).

Accordingly, I direct that a mail ballot election be conducted among the employees described above, pursuant to N.J.S.A. 34:13A-2.6(b)(3).

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date of this decision, including employees who did not work during that period because they were out ill, on vacation, temporarily laid off, or in military service. Employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date are ineligible to vote.

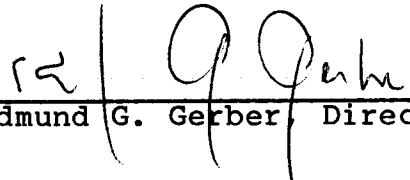
I direct the Public Employer to simulataneously file with me and with the Petitioner, an eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles, pursuant to N.J.A.C. 19:11-9.6. The Public Employer shall also file with me an accompanying proof of service. I must receive the eligibility list no later than ten (10) days prior to the date of the mailing of the ballots. I shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Ballots shall be mailed by the Commission to the eligible voters on December 19, 1985. Ballots must be received by the Commission by 9:00 a.m. on January 6, 1986. Ballots shall be counted by the Commission at 9:30 a.m. on January 6, 1985.

Those eligible to vote shall vote on whether they wish to be represented for the purpose of collective negotiations by the New Jersey State Policemen's Benevolent Association Local 57, or no employee organization .

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: November 27, 1985
Trenton, New Jersey