

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

In the Matter of

BOROUGH OF EAST RUTHERFORD,

Public Employer,

-and-

Docket No. RO-77-149

PBA LOCAL NO. 26 (EAST RUTHERFORD
UNIT),

Petitioner.

SYNOPSIS

The Director of Representation, in the absence of any substantial and material factual issues in dispute, directs an election within thirty (30) days to be conducted among patrolmen and sergeants in the public employer's police department.

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

In the Matter of

BOROUGH OF EAST RUTHERFORD,
Public Employer,

-and-

Docket No. Ro-77-149

PBA LOCAL NO. 26 (EAST RUTHERFORD UNIT),
Petitioner.

Appearances:

For the Public Employer, Alfred A. Porro, Jr., Esq.
For the Petitioner, Osterweil, Wind and Loccke, Esqs.
(Mr. Alfred G. Osterweil, of Counsel)

DECISION AND DIRECTION OF ELECTION

On March 7, 1977, 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 PBA Local No. 26 (the "PBA") with respect to a proposed unit of all police officers, police sergeants, police lieutenants, police captains and detectives employed by the Borough of East Rutherford ("Borough"). There are approximately 24 employees in the proposed unit. The undersigned has caused an administrative investigation of the petition to be conducted in order to determine the facts. All parties have been advised of the obligations under N.J.A.C. 19:11-2.6 (formerly, N.J.A.C. 19:11-1.12), and have been afforded an opportunity thereunder to present documentary and other evidence as well as statements of position, relating to the petition. The Borough has certified that the Commission's standard Notice to Employees has been posted.

On the basis of 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 after 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 Borough of East Rutherford 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 employees described herein, and is subject to the provisions of the Act.

3. PBA Local No. 26 (East Rutherford Unit) is an employee representative within the meaning of the Act and is subject to its provisions.

4. The PBA has filed a timely petition before the Commission, supported by an adequate showing of interest, requesting a secret ballot election to be conducted to determine if the employees in question desire to be represented for the purposes of collective negotiations by the Petitioner. The PBA has indicated a willingness to consent to an election in the proposed unit. The Borough has not stated that it will consent to an election. Thus, there exists a question concerning the representation of public employees before the Commission, and the Borough not having consented to a secret ballot election, the matter is appropriately before the undersigned for determination.

5. Neither party disputes the appropriateness of the petitioned-for unit, and the undersigned finds the unit prima facie appropriate for the purposes of collective negotiations.

6. On July 20, 1977, the undersigned notified the parties that, based on the investigation to date, it appeared that no substantial and material issues had been placed in dispute and that a valid question concerning representation existed in an appropriate unit. The undersigned provided an additional opportunity to all parties to present documentary and other evidence as well as statements of position relating

to the petition. The undersigned stated that in the absence of any substantial and material disputed factual issues, he would thereafter issue a decision and direction of election herein. No further evidentiary proffer or statements have been provided by the Borough; nor have any substantial and material disputed issues been raised by either party.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Based on the above, the undersigned finds that the appropriate unit for collective negotiations is all police officers below the rank of Deputy Chief employed by the Borough of East Rutherford, but excluding managerial executives, confidential employees, professional employees, craft employees, and supervisors within the meaning of the Act.

The undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below,

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

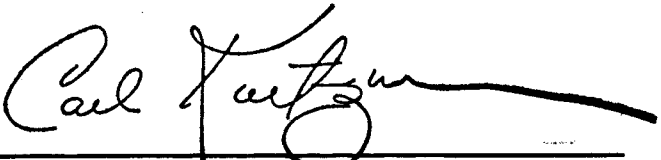
Pursuant to N.J.A.C. 19:11-9.6, the public employer is directed to file with the undersigned and with the employee organization an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed,

the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the PBA with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purposes of collective negotiations by PBA Local No. 26 (East Rutherford Unit).

The exclusive representative shall be determined by a majority of the valid ballots cast. The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

A handwritten signature in black ink, appearing to read "Carl Kurtzman", written over a horizontal line.

Carl Kurtzman, Director
Of Representation

DATED: September 7, 1977
Trenton, New Jersey