

D.R. NO. 92-12

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

In the Matter of

CUMBERLAND COUNTY PROSECUTOR,

Public Employer,

-and-

CUMBERLAND COUNTY PROSECUTOR'S
OFFICE CLERICAL STAFF ORGANIZATION,

Docket No. RO-92-53

Petitioner,

-and-

DISTRICT 65, U.A.W.,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a representation petition filed by the Cumberland County Prosecutor's Office Clerical Staff Organization seeking to represent all clerical employees of the Cumberland County Prosecutor. Petitioning employees are already included in a unit of blue collar and white collar employees represented by District 65, UAW.

The Director determined that petitioner's allegations about low wages and an inferior health care plan did not meet the standards for severance under Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971). Specifically, the petitioning employees received the same percentage wage increase as other unit employees in the last contract negotiations (although their annual salaries are lower than other unit employees) and the health care plan was equally ineffective for all unit employees. Accordingly, the Director dismissed the petition.

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Appearances:

For the Public Employer
Ivan M. Sherman, County Counsel

For the Petitioner
Suzanne Koller, Representative

For the Intervenor
Andrew Sona, Representative

DECISION

On September 24, 1991, the Cumberland County Prosecutor's Office Clerical Staff Organization ("Union") filed a representation petition seeking to represent all clerical employees of the Cumberland County Prosecutor ("County"). The petition included an adequate showing of interest.

On October 3, 1991,^{1/} the County filed a letter objecting to the petition and refusing to sign a consent agreement for a secret ballot election. The County asserts that the petitioned-for employees are included in a unit of about 65 blue collar and white collar employees represented by District 65, United Auto Workers of America ("UAW"). The current collective negotiations agreement for the unit expires December 31, 1991. The County alleges that the clerical employees have long been included in the overall unit, share a community of interest with other unit employees and that severance is inappropriate.

On October 25, 1991, I issued a letter tentatively dismissing the petition. No responses were filed.

The UAW represents a collective negotiations unit comprised of about 65 blue collar employees and white collar employees. The current agreement, expiring on December 31, 1991, contains rates of pay, a grievance procedure, a seniority provision, health and life insurance provisions and other articles setting terms and conditions of employment. Unit employees generally earn between \$14,000 - \$30,000 annually.

1/ The Cumberland County Prosecutor's Office was named as the employer on the original petition and our initial correspondence was served on the Cumberland County Prosecutor. Cumberland County, through its County Counsel, has asserted it is the employer of the petitioned-for employees and the Prosecutor has not made a separate appearance.

No party disputed that in the last round of negotiations, all unit employees received the same wage percentage increase. No grievances had been filed by employees in the proposed unit.

The primary reasons petitioner wishes to be severed from the existing unit is that clerical wages are relatively low and the UAW health plan is ineffective.

Under the circumstances, I find that the negotiations unit sought by the petitioner is inappropriate. N.J.S.A. 34:13A-6(d) provides that the Commission shall determine the appropriate unit for collective negotiations. In making unit determinations, the Commission considers the general statutory intent of promoting stable and harmonious employer-employee relations. It is charged with the responsibility of determining the most appropriate unit when there is a dispute. State v. Prof. Assn. of N.J. Dept. of Ed., 64 N.J. 231 (1974).

The Commission has established a standard by which petitions requesting severance of employees from an existing unit must be evaluated. In Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971), the Commission stated:

The underlying issue 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 a relationship is unstable or that the incumbent organization has not provided responsible representation. We think not. To hold otherwise would leave every unit open for 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.

See also Mercer Cty., P.E.R.C. No. 89-112, 15 NJPER 277 (¶20121 1989); Sussex-Wantage Bd. of Ed., P.E.R.C. No. 88-113, 14 NJPER 346 (¶19133 1988); Middletown Tp. Bd. of Ed., P.E.R.C. No. 88-44, 13 NJPER 841 (¶18322 1987); Passaic Cty. Tech. and Voc. H.S. Bd. of Ed., P.E.R.C. No. 87-73, 13 NJPER 63 (¶18026 1986). Severance is appropriate only when there is a record of unstable labor-management relations or when the majority representative has not responsibly represented its unit employees.

The union failed to allege facts showing that the UAW's relationship with the County is unstable or that the UAW has failed to provide responsible representation to clerical employees. That clerical employees may be lower paid than other employees and that the majority representative's health plan may be ineffective are not adequate reasons for severing the existing unit. Neither example shows that clerical employees have been treated differently than other unit employees, given the across-the-board wage increase in the last negotiations and the uniform treatment of health benefits for the entire unit.

Accordingly, a severance is not warranted and the petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: January 10, 1992
Trenton, New Jersey