

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

In the Matter of

JERSEY CITY MEDICAL CENTER,

Public Employer,

-and-

INTERNATIONAL BROTHERHOOD OF LAW
ENFORCEMENT AND SECURITY OFFICERS,

Docket No. RO-81-191

Petitioner,

-and-

COUNCIL 52, LOCAL 2252, AMERICAN
FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, AFL-CIO,

Intervenor.

SYNOPSIS

In the absence of substantial and material disputed factual issues warranting a hearing, the Director dismisses a Petition for Certification of Public Employee Representative. The Director determined that the Petitioner did not support a claim that security guards should be removed from the unit in which they were currently represented since it did not submit an evidentiary proffer which would establish instability or improper representation by the current representative.

D.R. NO. 81-36

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Intervenor.

Appearances:

For the Public Employer, John Doyle, Personnel Director

For the Petitioner, Arnold E. Brown, Esq.

For the Intervenor, Michael Lanni, Executive Director

DECISION

On February 13, 1981, a Petition for Certification of Public Employee Representative was timely filed with the Public Employment Relations Commission (the "Commission") by the International Brotherhood of Law Enforcement and Security Officers (the "Petitioner") seeking a unit comprised of all regular full and part-time security guards employed by the Jersey City Medical Center (the "Medical Center").

In accordance with N.J.A.C. 19:11-2.2(a), the undersigned caused an investigation to be conducted into the matters

and allegations set forth in the Petition in order to determine the facts.

Council 52, Local 2254, American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME"), the holder of a recently expired contract for a negotiations unit which includes the petitioned-for employees^{1/} has been granted intervenor status in the Petition pursuant to N.J.A.C. 19:11-2.7.^{2/}

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 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 Jersey City Medical Center 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 this Petition and is subject to the provisions of the Act.

3. The International Brotherhood of Law Enforcement and Security Officers, and the American Federation of State,

^{1/} The contract includes "all of the employees employed within the classifications known as 'White Collar' and 'Blue Collar' employees."

^{2/} N.J.A.C. 19:11-2.7 permits intervention based upon a recently expired agreement covering petitioned-for employees.

County, and Municipal Employees, AFL-CIO, are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Petitioner seeks to represent security employees of the Medical Center. The petitioned-for employees are currently represented by AFSCME in a collective negotiations unit of all blue and white collar employees of the Medical Center.

5. The Petitioner is prepared to enter into an Agreement for Consent Election for the petitioned-for unit. The Medical Center and AFSCME object to the severance of the security guards from the current unit. Therefore, the Medical Center and AFSCME declining to consent to an election, a dispute exists, and the matter is properly before the undersigned for determination.

6. The Commission has established standards for the severance of employees from an appropriate collective negotiations unit. In In re Jefferson Twp. Board of Education, 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.

7. On February 25, 1981, the parties were advised by the undersigned that the Petitioner had not proffered evidence which would indicate that the existing collective negotiations relationship is unstable or that the incumbent organization has not provided responsible representation. Accordingly, the undersigned stated that the standards established by the Commission for the severance of employees from any appropriate collective negotiations unit are not present herein. Petitioner was provided an additional opportunity to submit documentary and other evidence, as well as a statement of position to establish any claim under the Jefferson Twp. standard. The undersigned advised that in the absence of substantial and material disputed factual issues the Petition would be dismissed.

On March 2, 1981, the Petitioner submitted a claim to the Commission alleging that AFSCME's relationship with the security guards is unstable and that AFSCME "has discriminated against the security guards in favor of the other members of the unit." Petitioner requested a hearing to substantiate its position but declined to submit to the Commission documentary and/or other evidence as required in the undersigned's February 25, 1981 communication. The only factual proffer submitted by

the Petitioner is the following statement:

The members of the security guard unit of employees have been attempting for nine years to secure a separate bargaining unit. It is prima facie proof that the relationship between the security guards and AFSCME is unstable and that the security guards are not satisfied with the type and quality of representation, if any, that AFSCME is providing.

The above evidentiary proffer fails to provide a basis for the claim that the relationship herein is unstable or that AFSCME has discriminated against the security guards in its negotiations unit, and therefore the standards presented in Jefferson Twp. are not implicated in this matter. At best, the evidentiary proffer, assuming its factual validity, supports the conclusion that the security guards are unhappy with their inclusion in the unit of employees which AFSCME represents. This is hardly a basis to support a claim that employees should be severed from the facially appropriate existing collective negotiations unit.

Accordingly, the undersigned determines that the Petitioner has not met its obligations pursuant to N.J.A.C. 19:11-2.6 to present documentary and other evidence in support of its position that the existing relationship is unstable or that the incumbent organization has not provided responsible representation by discriminating against security guards in favor of other members of the unit. For the above reasons, the undersigned dismisses the instant petition.

BY ORDER OF THE DIRECTOR



Carl Kurtzman, Director

DATED: April 15, 1981
Trenton, New Jersey