

D.R. NO. 2002-12

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

In the Matter of

TOWNSHIP OF HAMILTON,

Public Employer,

-and-

HAMILTON TOWNSHIP INDEPENDENT UNION,

Docket No. AC-2002-3

Petitioner,

-and-

IBT LOCAL 331,

Intervenor.

SYNOPSIS

The Director of Representation declines to issue an amendment of certification where the requirements of N.J.A.C. 19:11-1.6 had not been met. The petitioner failed to demonstrate that its members voted to disaffiliate and establish a stand alone labor organization, and that the organization's officers would remain unchanged after the disaffiliation.

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Appearances:

For the Public Employer
Edward M. Sasdelli, Township Administrator

For the Petitioner
David L. Tucker, Consultant

For the Intervenor
Weissman & Mintz, attorneys
(Steven P. Weissman, of counsel)

DECISION

On September 17, 2001, the Hamilton Township Independent Union (Independent) filed an Amendment of Certification Petition with the Public Employment Relations Commission seeking to record its disaffiliation with Local 331, International Brotherhood of

Teamsters (Local 331). Local 331 opposes the petition. It argues that the Independent no longer exists, as it has been absorbed into Local 331. It also asserts that the petition does not comply with the requirements of N.J.A.C. 19:11-1.6. Additionally, Local 331 argues that the Petitioner's attempt to become the employees' exclusive representative raises an issue which can only be resolved by a representation election pursuant to N.J.A.C. 19:11-1.1 et seq.

The Township also opposes the petition. It does not wish to disturb the existing working conditions as set by the parties' current collective agreement, which continues until December 31, 2002.

We conducted an investigation of the petition in accordance with N.J.A.C. 19:11-2.6. The parties submitted position statements and evidence, the last of which was received on March 8, 2002.

In correspondence dated April 4, 2002, I advised the parties that I was not inclined to issue an amendment of certification in this case and set forth the factual and legal basis upon which I arrived at that conclusion. The parties were invited to respond. No response has been received.

Based on the following, I decline to issue the requested amendment of certification.

On December 4, 1996, following a secret ballot election, the Commission certified the Hamilton Township Independent Union as the exclusive representative of the Township's regularly employed non-supervisory white and blue collar employees (Docket No.

RO-97-44). On July 31, 1997, the Commission granted the Independent's Petition to amend its certification to record its affiliation with Local 331. Hamilton Township, D.R. No. 98-4, 23 NJPER 443 (128204 1997). The name of the certified representative was changed to HTIU/IBT Local 331. At that time, Independent had only two officers: a president, Eric Leeds and a recording secretary, Heidi Dennis, who continued in office after the affiliation vote.

On January 18, 2000, the Hamilton Township Independent Union/Teamsters Local 331, IBT, signed a three-year collective agreement with the Township covering the employees from January 1, 2000 through December 31, 2002. Local 331 President Joseph Yeoman signed the agreement on behalf of the union.

On June 26, 2001, Independent filed an Amendment of Certification Petition (AC-2001-4) seeking to end its affiliation with Local 331 and simultaneously affiliate with the United Workers Labor Union (UWLU). That petition was signed by a UWLU representative Stephen J. Madara and accompanied by a letter indicating that the Independent's membership voted on June 25, 2001 to affiliate with the UWLU. The membership was given two weeks notice prior to the election, which was conducted by secret ballot and resulted in a 14 to 11 vote to affiliate with the UWLU. The Petitioner also stated that the organization's officers and unit structure remain unchanged. On August 15, 2001, the petition was withdrawn.

On September 17, 2001, the Independent filed a new Amendment of Certification Petition. It is identical to its June 26, 2001 petition in every respect except: (1) it seeks only to end its affiliation with Teamsters; (2) its supporting letter, dated August 29, 2001, states that a membership vote was taken June 25, 2001 to end its affiliation with the Teamsters.

Prior to the affiliation between Independent and Teamsters, Yeoman was the president of Local 331. Yeoman continues to be Local 331's president and has been acting as president of Hamilton Township Independent Union/Teamsters Local 331, IBT, since at least January 18, 2000. It is unclear from the record whether there is now a secretary for the Hamilton Township Independent Union/Teamsters Local 331, IBT. However, it is clear that, should we issue an amendment of the certification, Yeoman would not continue to act as president of the Independent.

ANALYSIS

N.J.A.C. 19:11-1.6 provides in pertinent part:

(c) A petition for amendment of certification shall be supported by an affidavit attesting that the membership of the certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

1. The membership was given advance notice of the election;
2. The election was conducted by secret ballot;
3. A majority voted in favor of the change in name and affiliation; and

4. The organization's officers and the unit structure remain unchanged.

An amendment of certification (AC) petition may be filed when the certified representative seeks to affiliate or disaffiliate with another union. See Cape May County, et al., P.E.R.C. No. 85-80, 11 NJPER 91 (¶16039 1985). Ordinarily, an amendment of certification will be granted if the petitioning organization demonstrates that after proper notification, the unit's membership voted by secret ballot to approve the name/affiliation change; there is continuity in the unit's composition and there has been a complete transfer of officers from the prior organization to the newly-affiliated organization. Hamilton Tp. When the issue is not merely a name change, but rather a struggle between two employee organizations over which will represent the unit employees, an amendment petition is not appropriate. Rather, in order to change employee representatives, a petitioner must file a representation petition and win an election. Cape May Cty.

In this case, I decline to grant the amendment of certification. The Petitioner has not demonstrated that the officers of the organization will remain in their representative capacities since the June 25, 2001 affiliation vote. Therefore, the requirement of N.J.A.C. 19:11-1.6(c) has not been fulfilled. The president of Local 331 serves as the president of the certified representative. However, the current officers would not remain in place after the "disaffiliation" sought by this petition. It is

clear that Yeoman would not continue as an officer of Hamilton Independent Union, since Local 331 opposes the "disaffiliation."

Moreover, at the June 25, 2001 vote, the membership voted to affiliate with another union, UWLU, not merely to disaffiliate with the Teamsters. Petitioner has sought to rely on the June 25, 2001 membership vote for both its June 26 and September 17, 2001 petitions, but the petitions seek two different things. Pursuant to Independent's own representation, at the June 25, 2001 election, the membership did not vote to reestablish the Hamilton Township Independent Union as a stand alone labor organization.

For all of the foregoing reasons, Petitioner has not met the criteria of N.J.A.C. 19:11-1.6. Therefore, I will not issue an amendment of certification in this case.

ORDER

The petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

Stuart Reichman, Director

DATED: April 22, 2002
Trenton, New Jersey