

D.R. NO. 91-31

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

In the Matter of

COUNTY OF BERGEN
(BERGEN PINES COUNTY HOSPITAL),

Public Employer,

-and-

Docket No. RO-91-56

NEW JERSEY EMPLOYEES LABOR UNION NO. 1,
AFFILIATED WITH SEIU LOCAL 1988,

Petitioner.

DECISION

The Director of Representation dismisses a petition filed by NJELU seeking to sever technical supervisors from its own existing broad-based supervisors unit. The Director rejects the union's argument that technical supervisors no longer share a community of interest with the other unit supervisors. Applying the Jefferson standards, the Director finds that the union did not demonstrate that the existing negotiations relationship is unstable or that it had failed to responsibly represent its technical supervisors.

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Appearances:

For the Public Employer
Ralph Kornfeld, Director of Personnel

For the Petitioner
Loccke and Correia, attorneys
(Manuel Correia, of counsel)

DECISION

On October 1, 1990, New Jersey Employees Labor Union No. 1, Supervisors Unit, affiliated with SEIU Local 1988 ("NJELU"), filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission").

NJELU seeks to sever certain technical supervisors from its own existing unit of all professional and non-professional supervisors. It contends that the technical supervisors lack of community of interest with other unit employees. It suggests that the difficulties of satisfying the negotiations demands of the

technical supervisors, who are a minority of the supervisors group, could be overcome if the technical supervisors were placed in their own unit.

The Hospital objects to the formation of a separate unit for the technical supervisors. It argues that permitting this unit to divide will encourage further unit fragmentation.

Pursuant to N.J.A.C. 19:11-2.6, we conducted an administrative investigation. The investigation reveals the following facts.

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

NJELU is the successor organization to Bergen Council No. 5, New Jersey Civil Service Association ("Council 5"). Council 5 and then its successor NJELU, has represented the existing supervisors' unit since the unit's formation in 1981. The unit was created through a representation petition filed by Council 5. The Director found that a broad-based unit of all supervisory employees was appropriate and directed a secret ballot election. Bergen Pines County Hospital, D.R. No. 81-25, 7 NJPER 117 (¶12047 1981).

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, we must

consider the general statutory intent of promoting stable and harmonious employer-employee relations. The Commission 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.

NJELU has not alleged that its existing collective negotiations relationship with the Hospital is unstable or that it has not provided responsible representation to the technical supervisors in its unit. The existence of competing negotiations interests within the supervisors' unit does not destroy the unit's community of interest or justify severance. In Clifton Bd. of Ed., D.R. No. 80-18, 6 NJPER 38 (¶11020 1980), the Director of Representation addressed this issue:

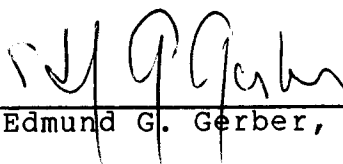
[I]n situations where two groups of employees within the same unit have different views of economic or non-economic interest, the undersigned has declined to find a conflict of interest. Rather, this not infrequent occurrence raises an issue of "competing interests" and, therefore, does not warrant the severance of employees from an appropriate unit.

Where different classifications of employees within a negotiations unit have different views of economic interest, it is understandable that the views of the minority are often not favored and not accepted. A majority representative's responsibility is to assure, however, that the views of the minority are responsibly considered. [Id. at 39-40]

NJELU has not demonstrated that severance of the technical supervisors is warranted. No facts have been presented which suggest that the negotiations relationship between the Hospital and NJELU is unstable or that NJELU has failed to responsibly represent its technical supervisors.

Accordingly, I find that a separate unit of the Hospital's technical supervisors is not appropriate. The petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Edmund G. Gerber, Director

DATED: May 16, 1991
Trenton, New Jersey