

D.R. NO. 95-4

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

In the Matter of

BOROUGH OF HIGHTSTOWN,

Public Employer,

-and-

Docket No. RO-94-150

IBT LOCAL NO. 11,

Petitioner,

-and-

PESU LOCAL 702,

Intervenor.

SYNOPSIS

The Director of Representation dismisses a petition for certification of representative filed two days after a successor contract in the form of a memorandum of agreement was signed by the employer and incumbent union. The Director determined that the petition was untimely; that the memorandum was sufficient to operate as a contract which barred the petition under N.J.A.C. 19:11-2.8 (c)2.

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Appearances:

For the Public Employer  
John Kennedy, Administrator

For the Petitioner  
Cohen, Weiss & Simon, attorneys  
(Susan J. Panepinto, of counsel)

For the Intervenor  
Robert J. Feeney, Business Representative

DECISION

On June 16, 1994, Teamsters Local 11 filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission. The Teamsters seek to represent a negotiations unit comprised of all blue collar employees employed in

the department of public works, the sewer treatment plant and the water department, and all working foremen employed by the Borough of Hightstown. The petitioned-for employees are currently represented by PESU Local 702, which has requested and is granted intervenor status. N.J.A.C. 19:11-2.7. Both the Borough and PESU oppose the petition and refuse to consent to an election. They contend the petition is untimely due to the recent execution of a collective negotiations agreement.

We have conducted an investigation and the following facts appear. N.J.A.C. 19:11-2.6.

PESU Local 702 has represented the petitioned-for employees since 1991. The Borough and PESU had a two-year collective negotiations agreement which expired on December 31, 1993. Subsequently, the parties negotiated successor terms and conditions of employment and memorialized them in a Memorandum of Agreement, dated June 14, 1994. The Memorandum's terms encompass wages, benefits, and the grievance procedure for the term of 1994, 1995 and 1996, with a wage reopener for 1996. It contains substantive terms and conditions of employment. There are no terms indicating that it is effective only upon further ratification or approval. It was signed by members of the negotiations unit, a PESU business representative and by the Borough Administrator and can stand on its own as an agreement which binds the parties. The union signers have certified individually that they signed the agreement on June 14, 1994. The petition herein was filed on June 16, 1994.

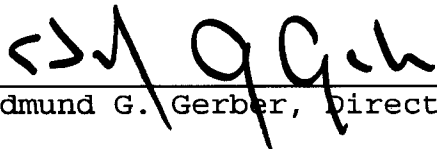
N.J.A.C. 19:11-2.8, "Timeliness of petitions," states, in relevant part:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a petition for certification of public employee representative or a petition for decertification of public employee representative normally will not be considered timely filed unless:

2. In a case involving employees of a county or a municipality, any agency thereof, or any county or municipal authority, commission or board, the petition is filed not less than 90 days and not more than 120 days before the expiration or renewal date of such agreement;

Therefore, I find that this petition is untimely; it was filed two days after the Borough and PESU executed a successor collective negotiations agreement. Accordingly, the petition is dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: September 8, 1994  
Trenton, New Jersey