

D.R. No. 2010-10

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

In the Matter of

CITY OF HOBOKEN,

Public Employer,

-and-

Docket No. RO-2010-39

RWDSU LOCAL 108, UFCW,

Petitioner.

SYNOPSIS

The Director of Representation orders that RWDSU Local 108, UFCW (Local 108) be certified as the exclusive representative of all regularly employed non-supervisory crossing guards employed by the City of Hoboken, based upon a card check. The City did not raise any objection nor file any letter contesting the petition or the proposed Stipulation of Appropriate Unit. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and the Petitioner complied with the card check rules, the Director certified Local 108 as the majority representative of the petitioned-for unit.

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Petitioner.

Appearances:

For the Respondent,  
Scarinci & Hollenbeck, LLC  
(Ramon Rivera, of counsel)

For the Petitioner,  
(Eric M. Igbokwe, Business Agent)

DECISION

On November 18, 2009, RWDSU Local 108, UFCW (Local 108) filed a representation petition for card check certification seeking a unit of all regularly employed non-supervisory crossing guards employed by the City of Hoboken (City). The petition was accompanied by authorization cards from a majority of the petitioned-for employees. No other labor organization claims interest in representing the employees.

The City has not objected to Local 108's petition and refuses to sign a Stipulation of Appropriate Unit form allowing continued processing of the petition.

We have conducted an administrative investigation to determine the facts. N.J.A.C. 19:1-2.2. The disposition of the petition is properly based upon our administrative investigation. No disputed substantial material facts warrant our convening of an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon the administrative investigation, I find the following facts:

On December 2, 2009, we provided Notices to Employees, advising that Local 108 filed a petition for certification by card check. The City has certified that it posted the notices for the required ten-day period. On December 3, 2009, at our request, the City filed a list of the petitioned-for employees. The City also confirmed that the employees are not included in any of its collective negotiations units. We have checked the submitted authorization cards against the names provided on the City's list and determined that a majority of unit employees have signed authorization cards for representation by Local 108.

On December 22, 2009, a Commission staff agent issued to the parties a proposed Stipulation of Appropriate Unit form setting forth the petitioned-for unit description with spaces allotted for the signatures of the designated representatives. On December 23, 2009, Local 108 returned the form, signed by its business agent. Also that day, following a telephone conversation between the staff agent and the City's counsel, the City was issued a confirming letter setting January 8, 2010 as a filing deadline for a letter advising us of its position regarding the petition. We received no response.

On January 13, 2010, the staff agent again wrote to the City, seeking either the return of a signed Stipulation of Appropriate Unit form or its letter advising of its position on the petition not later than January 19, 2010. The letter also advised that if neither document was received, the petition would be processed. No response was filed.

#### ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3 to authorize the Commission to certify a majority representative where: (a) a majority of employees in an appropriate unit who have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. See N.J.A.C. 19:11-2.6(b).

The City has not raised any objection nor filed any letter contesting the petition or the proposed Stipulation of Appropriate Unit.

The Legislature has determined that a check of an organization's authorization cards signed by a majority of employees in an appropriate unit is a lawful method to determine a majority representative. Our review of Local 108's authorization cards shows that it has submitted cards from a majority of the petitioned-for employees. The employees' signatures on the cards meets the intent of the statute and the rules. Accordingly, Local 108 is entitled to a certification

based upon a card check, regardless of the City's failure to submit a signed Stipulation of Appropriate Unit. See Passaic County Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic County Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

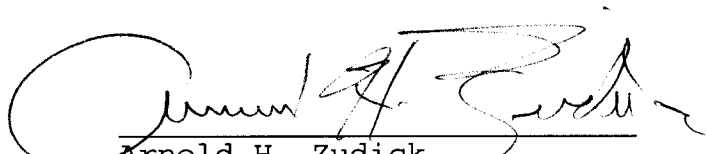
I find that the following unit is appropriate:

Included: All regularly employed non-supervisory crossing guards employed by the City of Hoboken.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; professional employees, craft employees, police, casual employees, and all others employed by the City of Hoboken.

ORDER

I certify RWDSU Local 108, UFCW as the exclusive representative of the unit described above, based upon its authorization cards<sup>1/</sup>.

  
Arnold H. Zudick  
Director of Representation

DATED: January 25, 2010  
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by February 5, 2010.

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<sup>1/</sup> The formal certification is attached.

**STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

**In the Matter of**

HOBOKEN,

Public Employer,

-and-

RWDSU LOC 108,

Petitioner.

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DOCKET NO. RO-2010-039

**CERTIFICATION OF REPRESENTATIVE  
BASED UPON AUTHORIZATION CARDS**

In accordance with the New Jersey Employer-Employee Relations Act, as amended, and the Rules of the Public Employment Relations Commission, we have conducted an investigation into the Petition for Certification filed by the above-named Petitioner. The Petitioner has demonstrated by card check that a majority of the unit employees described below have designated the Petitioner as their exclusive representative for purposes of collective negotiations, and, no other employee organization has expressed a valid interest in representing these employees.

Accordingly, **IT IS HEREBY CERTIFIED** that


**LOCAL 108 RWDSU, UFCW**

is now the exclusive representative of all the employees included below for the purposes of collective negotiations with respect to terms and conditions of employment. The representative is responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership. The representative and the above-named Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment as required by the Act.

**UNIT: Included:** All regularly employed non-supervisory crossing guards employed by the City of Hoboken.

**Excluded:** Managerial executives, confidential employees and supervisors within the meaning of the Act; professional employees, craft employees, police, casual employees, and all others employed by the City of Hoboken.

**DATED:** January 25, 2010  
Trenton, New Jersey

  
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Arnold H. Zudick, Director of Representation

**Attachment:**

**Certification of Representative dated:** January 25, 2010

**In the Matter of**

HOBOKEN

-and-

RWDSU LOC 108

Docket No. RO-2010-039

**Service on the following:**

Ramon Rivera, Esq.  
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1100 Valley Brook Ave  
PO Box 790  
Lyndhurst, NJ 07071

Eric Igbokwe  
RWDSU Loc 108  
1576 Springfield Ave  
Maplewood, NJ 07040