

D.R. No. 2019-12

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

In the Matter of

BOROUGH OF PEAPACK-GLADSTONE,

Public Employer,

-and-

Docket No. RO-2019-038

TEAMSTERS LOCAL UNION NO. 469,
AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Petitioner.

SYNOPSIS

The Director of Representation orders that Teamsters Local Union No. 469, Affiliated with the International Brotherhood of Teamsters (Local 469), be certified as the exclusive representative of all regularly employed, non-supervisory blue collar employees employed by the Borough of Peapack-Gladstone (Borough) within the Department of Public Works, based upon a card check. The Borough objects to the representation petition and refused to sign a Stipulation of Appropriate Unit but nevertheless indicated that it would not contest the appropriateness of the unit described in the Certification. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and Local 469 complied with the card check rules, the Director certifies Local 469 as the majority representative for the unit in question.

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Petitioner.

Appearances:

For the Public Employer, Cleary, Giacobbe, Alfieri &
Jacobs, LLC, attorneys (Bruce Padula, of counsel)

For the Petitioner, Matthew L. Broderick, Secretary-
Treasurer

DECISION

On December 31, 2018 and January 3, 2019, Teamsters Local Union No. 469, affiliated with the International Brotherhood of Teamsters (Local 469), filed a petition for certification of public employee representative and amended petition seeking to represent a collective negotiations unit of blue collar employees of the Borough of Peapack-Gladstone (Borough).^{1/} Local 469 seeks

^{1/} Local 469's petition estimates that "5" employees are included in the unit, described as:

Included: all blue collar employees, employed by the Department of Public Works.

Excluded: All others excluded by the Act.

certification by a check of authorization cards accompanying its petition. A majority of those petitioned-for employees, who are currently unrepresented, submitted signed and dated authorization cards.

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

On January 4, 2019, I issued a letter to the Borough, together with a copy of the petition, a Notice to Employees (Notice) for posting by the Borough,^{2/} and a Certification of Posting. The letter solicited, among other items, an alphabetical list of employees in the proposed unit, the names of any organizations which have claimed an interest in representing any of the employees in the proposed unit within the past 12-

^{2/} The Notice provides that Local 469 filed a representation petition and specifies that "[t]he collective negotiations unit claimed to be appropriate" (emphasis supplied) is the following:

Included: All blue collar employees employed by the Department of Public Works.

Excluded: All other employees employed by the Department of Public Works.

The Notice also specifies, "NO DETERMINATION HAS BEEN MADE AT THIS TIME."

month period, and any existing or recently expired collective negotiations agreements covering any of the petitioned-for employees.

Also on January 4, 2019, the Borough returned a Certification of Posting it signed that date, and the alphabetized list of employees. The Notice has been posted for the requisite period. N.J.A.C. 19:11-2.4(c). The authorization cards that Local 469 provided with the petition are signed by a majority of the employees identified on the Borough's list. See N.J.A.C. 19:11-2.6(b). The Borough has not indicated whether any other organization(s) have expressed an interest in representing the petitioned-for employees.

On January 8, 2019, a Commission staff agent sent a proposed Stipulation of Appropriate Unit (Stipulation) form to the parties describing the petitioned-for unit as follows:

Included: All regularly employed, non-supervisory blue collar employees employed by the Borough of Peapack-Gladstone.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, white collar employees, police, casual employees, and all other employees employed by the Borough of Peapack-Gladstone.

The staff agent explained that if designated representatives for both parties signed the Stipulation, the in-person conference scheduled for January 24, 2019, could be cancelled. The staff

agent also asked the parties to provide any proposed change(s) to the Stipulation as soon as possible.

Also on January 8, 2019, Local 469 signed and returned the proffered Stipulation. With Local 469's consent, the Commission staff agent forwarded its executed Stipulation to the Borough. The Borough neither returned a fully-executed Stipulation, nor provided any proposed change(s).

On January 22, 2019, the Borough advised that it will not sign the Stipulation and will not consent to Local 469's petition. The Commission staff agent advised the parties that the in-person conference scheduled for January 24, 2019, was cancelled and that the Borough was to file its letter opposing the petition before the close of business on January 24th.

On January 24, 2019, the Borough filed a letter opposing the Local 469's petition. The Borough essentially requests that we elect to ". . . continue investigating the petition, dismiss the petition, and/or direct that an election take place" based upon these alleged "inconsistencies:"

- the unit description set forth in the petition is not identical to the unit description set forth in the Notice or the Stipulation and the number of employees set forth in the petition is not identical to the number of employees set forth in the eligibility list;

- the Commission considered the job titles, building manager, excluded from the proposed unit, despite the fact that the employee is neither a supervisor, nor a managerial executive; and there remains a question as to whether the job title, assistant DPW supervisor, should be included or excluded from the unit;

-a part-time employee in the DPW has not been included in the unit; and

-the Borough is unaware of how many employees signed authorization cards, nor is the Borough aware of whether employees were told before signing cards who would/would not be included in a collective negotiations unit or what the legal implications were of signing such authorization cards.

On January 25, 2019, the Commission staff agent sent a letter to the parties requesting a written response by close of business on January 28, 2019 as to whether either objected to the following unit description and, if so, the reason(s) for objecting:

Included: All regularly employed, non-supervisory blue collar employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, white collar employees, police, casual employees, and all other employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

Also on January 25, 2019, Local 469 submitted a letter advising that it would not file any response to the Borough's position statement and did not object to the unit description set forth in the Commission staff agent's January 25, 2019 letter.

On January 28, 2019, the Borough submitted a letter advising that it did not object to the unit description specified in the Commission staff agent's January 25, 2019 letter.

ANALYSIS

On July 19, 2005, our Legislature amended the New Jersey Employer-Employee Relations Act (Act), N.J.S.A. 34:13A-5.3, authorizing the Commission to certify a majority representative when: (a) a majority of employees in an appropriate unit have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. N.J.A.C. 19:11-2.6(b). The Director of Representation (Director) shall determine whether a majority of employees in the unit have signed valid authorization cards and ". . . [a]bsent the submission of substantial, reliable evidence that raises a legitimate and substantial doubt, executed authorization cards are presumed valid." N.J.A.C. 19:11-2.6(b).

In Paterson Charter School for Science & Technology, D.R. No. 2015-9, 42 NJPER 74 (¶19 2015), adopted P.E.R.C. No. 2016-4, 42 NJPER 99 (¶27 2015), the Commission rejected the employer's argument that the Director should have disclosed the exact number of unit members who signed authorization cards. The Commission specified that the Director's investigatory duties and obligations flow from the Commission's regulations and declined to ". . . unnecessarily impose a new requirement for the Director to provide more information than is legally obligated." 42 NJPER at 101.

Accordingly, I am not required to provide the number or copies of valid, signed authorization cards enabling me to determine that a majority threshold has been reached. In the absence of competent evidence implicating the validity of any authorization cards, I am compelled to rely on the cards for purposes of determining a petitioning organization's majority representative status. See International Academy of Trenton Charter School, D.R. No. 2017-2, 43 NJPER 152 (¶46 2016), adopted P.E.R.C. No. 2017-24, 43 NJPER 175 (¶54 2016); New Hanover Tp., D.R. No. 2016-7, 42 NJPER 480 (¶133 2016).

Our review of Local 469's authorization cards, when cross-checked against the Borough's eligibility list, shows that a majority of the petitioned-for employees have submitted cards in support of Local 469. The employees' signatures on the cards meets the intent of the statute and the rules. Even if I assume that the job titles, building manager and/or assistant DPW supervisor are excluded from or included in the unit, the number of signed cards submitted by eligible employees, compared with the Borough's list of eligible employees, demonstrates that Local 469 has submitted cards from a majority of the petitioned-for employees.

The differing unit descriptions in the petition, Notice, and Stipulation, as well as the differing number of employees in the petition and set forth on the eligibility list, are not

problematic. In its petition, Local 469 was required to provide "[a] description of the collective negotiations unit claimed to be appropriate," indicating "the general classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate." N.J.A.C. 19:11-1.2(a)2 (emphasis added). The proposed Stipulation clarifies that the petitioned-for employees are employed by the Borough - not the DPW - and corresponds with the Commission's "preference for broad-based units and reluctance to form units along occupational or departmental lines [that] is well established." Newark State Operated Sch. Dist., D.R. No. 2018-12, 44 NJPER 195 (¶57 2017), adopted P.E.R.C. No. 2018-39, 44 NJPER 383 (¶108 2018); see also Gloucester Cty., D.R. No. 2011-2, 36 NJPER 436 (¶170 2010), aff'd in pt. rev'd in pt. P.E.R.C. No. 2011-69, 37 NJPER 141 (¶42 2011); State v. Prof'l Ass'n of N.J. Dep't of Educ., 64 N.J. 231 (1974).

My determination regarding the appropriate unit is based upon our investigation, the number of employees specified in the Borough's eligibility list, and the parties' respective representations that they have no objection to the unit description specified in the Commission staff agent's January 25, 2019 letter - not the unit that Local 469 "claimed" to be appropriate in its petition. See N.J.A.C. 19:11-2.2; N.J.S.A. 34:13A-6(d) (the agency "shall decide in each instance which unit

of employees is appropriate for collective negotiation"). Finally and contrary to the Borough's assertion, full-time employees and part-time employees are subsumed within the phrase, "regularly employed" and are included in the unit, whereas casual employees (i.e., ". . . employees who work an average of fewer than four hours per week over a period of 90 days") are excluded from the unit. N.J.S.A. 34:13A-5.15b.

Accordingly, Local 469 is entitled to a certification based upon a check of authorization cards (N.J.S.A. 34:3A-5.3), regardless of the Borough's failure to submit a signed Stipulation. See Lakewood Tp. Bd. of Ed., D.R. No. 2019-4, 45 NJPER 96 (¶25 2018); Passaic Cty. Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic Cty. Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

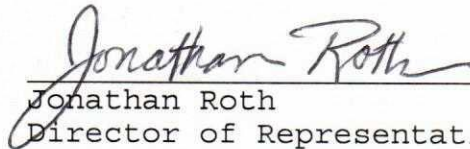
I find that the following unit is appropriate:

Included: All regularly employed, non-supervisory blue collar employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, white collar employees, police, casual employees, and all other employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

ORDER

I certify Teamsters Local Union No. 469, affiliated with the International Brotherhood of Teamsters, based upon its authorization cards, as the exclusive representative of the negotiations unit described above.^{3/}


Jonathan Roth
Director of Representation

DATED: January 30, 2019
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 11, 2019.

^{3/} The formal certification is attached.

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

In the Matter of

BOROUGH OF PEAPACK-GLADSTONE,
Public Employer,

-and-

TEAMSTERS LOCAL UNION NO. 469, AFFILIATED
WITH THE INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,
Petitioner.

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> DOCKET NO. RO-2019-038
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**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

**TEAMSTERS LOCAL UNION NO. 469, AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

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 blue collar employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, white collar employees, police, casual employees, and all other employees employed by the Borough of Peapack-Gladstone within the Department of Public Works.

DATED: January 30, 2019
Trenton, New Jersey


Jonathan Roth, Director of Representation

Attachment:

Certification of Representative dated: January 30, 2019

In the Matter of

BOROUGH OF PEAPACK-GLADSTONE

-and-

IBT LOC 469, A/W THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

Docket No. RO-2019-038

Service on the following:

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