

D.R. NO. 98-4

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

In the Matter of

TOWNSHIP OF HAMILTON,

Public Employer,

-and-

Docket No. AC-97-3

HAMILTON TOWNSHIP INDEPENDENT
UNION,

Petitioner.

SYNOPSIS

The Director of Representation grants an amendment of certification requested by the Hamilton Township Independent Union (HTIU). This name change reflects the affiliation of the HTIU with IBT Local 331. The request is granted over the Township's objections because the HTIU complied with the necessary requirements. The new name of the exclusive majority representative is HTIU/IBT Local 331.

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Appearances:

For the Public Employer
Raymond Townsend, Township Administrator

For the Petitioner
David Tucker, Representative

AMENDMENT OF CERTIFICATION

On March 6, 1997, a Petition for Amendment of Certification was filed^{1/} pursuant to N.J.A.C. 19:11-1.6 with the Public Employment Relations Commission by the Hamilton Township Independent Union. It seeks to amend a Certification of Representative to record its affiliation with IBT Local 331 and be recognized as HTIU/IBT Local 331.

On December 4, 1996, the Commission certified the Hamilton Township Independent Union (Docket No. RO-97-44) as the exclusive representative of all regularly employed non-supervisory white and blue collar employees employed by the Township of Hamilton. The

^{1/} An amendment to the petition was filed on June 20, 1997.

unit excludes all confidential employees, managerial executives, supervisors within the meaning of the Act, police, professional employees, craft employees, municipal utility authority employees and all other employees employed by Hamilton Township. Now the Hamilton Township Independent Union has requested that the Commission amend its Certification to reflect its affiliation with IBT Local 331.

The Township objects to the issuance of an amended Certification on behalf of all of the employees affected. The Township contends that the petition was procedurally defective and the employees overwhelmingly supported an independent union in the December representation election. Further, the majority of unit members do not understand how the Teamsters presence has evolved in the Township, nor was the amended certification explained fully to the members. Finally, the Township asserts that it was not aware of the conduct of any officer elections, and that the officers in place appointed themselves. The Township did not submit affidavits or any other evidence in support of its contentions.

Our investigation reveals^{2/} that on December 11, 1996,

^{2/} An administrative investigation was conducted into the matters involved in this case. On April 23, 1997, I wrote to the parties indicating my intention to approve the amendment of certification based on my findings of fact. I gave both parties the opportunity to challenge the factual accuracy of my findings and support their positions with affidavits or other evidence. On May 12, 1997, the Township submitted an additional statement unsupported by affidavits or other evidence. There still are no substantial and material facts in dispute warranting a hearing. N.J.A.C. 19:11-2.2 and 2.6.

Teamster representative David Tucker,^{3/} sent a letter to Township administrator Raymond Townsend which reads as follows:

This letter is to advise you that the Hamilton Township Independent Union has affiliated with Teamsters Union Local 331. Accordingly, Local 331 will be serving as the exclusive bargaining representative for the employees in this Hamilton Township bargaining unit. A contract proposal will sent to your attention as soon as possible (sic).

The letter was sent one week after the Hamilton Township Independent Union was certified as the exclusive majority representative. The Township's response to this letter is unknown.

On January 15, 1997, the Hamilton Township Independent Union conducted a meeting and secret ballot election. One week prior to the meeting, notices were posted on employee bulletin boards throughout the Township inviting all unit members to the meeting for the purpose of considering the affiliation with IBT Local 331. The vote was 25-2 in favor of affiliating with IBT Local 331. There were 44 employees in the negotiations unit when it was certified.

The Township argues the December letter was sent prior to the affiliation election in January. Accordingly, there was an inappropriate affiliation arrangement made by officers of the Hamilton Township Independent Union. Further, it speculates that the affiliation vote was merely the membership affirming an

^{3/} Tucker is also identified as the representative of the petitioner, the Hamilton Township Independent Union.

arrangement that was already in place. However, the election results indicate that a majority of the unit members wanted Teamster affiliation, thus supporting the assertions of the December letter.

There has been a transfer of organization officers as certified by President Eric Leeds in two affidavits, one on March 24 and a second on April 9, 1997. He attests that there are only two officers of the Hamilton Township Independent Union, a president and recording secretary. The individuals holding these positions, he and Heidi Dennis, continue as officers in the newly-affiliated organization. Although the Township alleges that the officers were self-appointed, rather than elected, and characterizes the representations made by Leeds or other officers as inaccurate and unsubstantiated, it has not provided evidence in support of its position. Additionally, the method by which union officials obtain office and the number of union officers is an internal union affair.

The composition of the unit continues to be the same as when the unit was certified and the incumbent organization, the Hamilton Township Independent Union, is not opposed to the affiliation, but clearly supports it.

An amendment of certification will be granted if the petitioning organization demonstrates that after proper notification, the union's unit membership votes 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. Dover Bd. of Ed., D.R. No. 83-1, 8 NJPER 460 (¶13215 1982); Ocean Cty. Utilities Authority, D.R. No. 83-15, 8 NJPER 598 (¶13280 1982); Teaneck Tp., D.R. No. 79-23, 5 NJPER 103 (¶10057 1979); Morris Cty. College, E.D. No. 71, 1 NJPER 17 (1975).

Amendment of Certification Petitions have been dismissed when rather than merely a name change, a struggle between two labor organizations arises over which will represent the employees in the unit. In order to change a representative, a union must file a representation petition and win an election. See Cape May County, et al., P.E.R.C. No. 85-80, 11 NJPER 91 (¶16039 1985).

Under all of the circumstances of this case, the Hamilton Township Independent Union has complied with the requirements necessary to be granted an amended certification. Members were notified of the affiliation vote seven days before it occurred. A secret ballot election was conducted which was observed by employees both opposed to and in favor of the affiliation. A majority of the unit members participated in the election and voted in favor of the affiliation. The Hamilton Township Independent Union president has certified that both officers remained in office after the affiliation vote and are serving as HTIU/IBT Local 331 officers.

Therefore, over the Township's objections, I am granting the amendment of certification requested. In accordance with the

D.R. NO. 98-4

6.

Commission's rules, I will change the Certification issued by the Commission to reflect the name change of the exclusive majority representative to HTIU/IBT Local 331 effective December 4, 1996.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: July 31, 1997
Trenton, New Jersey