

D.R. NO. 88-5

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

In the Matter of

COUNTY OF ATLANTIC,

Public Employer-Petitioner,

-and-

AFSCME, COUNCIL 71, AFL-CIO,

Docket No. CU-87-71

Employee Representative,

-and-

TEAMSTERS LOCAL 331,

Intervenor.

SYNOPSIS

The Director of Representation clarifies a unit of health care employees represented by AFSCME, Council 71 to include State-funded clerk driver/stockhandlers employed by Atlantic County in its Department of Health and Institutions. Council 71 was certified to represent the County's health care employees after winning an election held February 6, 1987. State-funded clerk driver/stockhandlers voted (undeterminative) challenged ballots in the election because their names were not on the eligibility list. The list had been generated from the County's payroll, which included clerk driver/stockhandlers funded through the County's budget but not those funded by State grant. The terms and conditions of employment of the State-funded employees are identical to those of employees funded by the County. The Director concluded that source of funding was not a sufficient basis to exclude them from the unit. Passaic County, D.R. No. 78-29, 4 NJPER 8 (¶4006 1977).

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Appearances:

For the Public Employer-Petitioner
Pachman and Glickman, Esqs.
(Martin R. Pachman, of counsel)

For the Employee Representative
Carolyn Holmes, Executive Director

For the Intervenor
Jack Miller, President

DECISION

On May 26, 1987, the County of Atlantic ("County") filed a petition to clarify a collective negotiations unit of health care employees in the County's Department of Health and Institutions currently represented by AFSCME, District Council 71, AFL-CIO ("Council 71") to include all employees holding the title of clerk driver/stock handler.

On June 9, 1987, a Commission staff agent scheduled an informal conference for June 25, 1987. On June 25, 1987, the conference was convened and an investigation was begun.

The results of the investigation follow:

On February 18, 1987, Council 71 was certified as the exclusive representative of all institutional employees of the County's Department of Health and Institutions ("Department"). Institutional employees had previously been represented by Teamsters Local 331 ("Local 331"). Council 71's certification followed an election which was conducted on February 6, 1987.

Several of the County's clerk driver/stock handlers are compensated directly from the Department's budget; others are compensated through a State grant. The names of the clerk driver/stock handlers who are State-funded were not included on the eligibility list that was used in the representation election on February 6, 1987. The list was generated from the County's payroll, which did not include State-funded employees. Those clerk driver/stock handlers who are compensated from the Department's budget were included on the eligibility list. State-funded clerk driver/stock handlers voted challenged ballots. The challenged ballots were not determinative of the election results so the unit eligibility of State-funded clerk driver/stock handlers was not resolved.

Clerk driver/stock handlers who are compensated by State grant perform the same functions, work in the same places and have

the same supervisors as those compensated directly from the Department's budget.

Clerk driver/stock handlers paid by the Department are now included in Council 71's collective negotiations unit. State-funded clerk driver/stock handlers have remained in the Local 331 white collar unit.

When the County filed its clarification of unit petition, it served copies on Council 71 and Local 331. The parties were invited to file position statements and to participate in the processing of the petition. Local 331 neither filed a position statement nor attended the informal conference held June 25, 1987. Council 71 attended the conference and filed a position statement in which it concurs with the County's position that the State-funded clerk driver/stock handlers should be included in its collective negotiations unit.

On July 22, 1987, we advised the parties that we were inclined to clarify Council 71's collective negotiations unit to include those clerk driver/stock handlers who are compensated with State funds. These employees share the same title, responsibilities and supervisors as those funded through the department's budget. The source of funding is not a sufficient basis to exclude the clerk driver/stock handlers from the health care services unit. Passaic County, D.R. No. 78-29, 4 NJPER 8 (14006 1977).

We invited the parties to submit documentary materials, affidavits or other evidentiary materials and supporting statements

of position if they believed that our determination was incorrect. Such materials were to be filed by the close of business (5 p.m.) August 3, 1987. N.J.A.C. 19:11-2.6. We advised the parties that in the absence of evidence and argument which would compel a finding to the contrary, we would issue a decision clarifying Council 71's collective negotiations unit to include all clerk driver/stock handlers. No additional materials were submitted. Therefore, we clarify Council 71's collective negotiations unit to include all clerk driver/stock handlers.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

A handwritten signature in dark ink, appearing to read 'Edmund G. Gerber', written over a horizontal line.

Edmund G. Gerber, Director

DATED: August 13, 1987
Trenton, New Jersey