

L.D. No. 88-4

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

BOROUGH OF WEST LONG BRANCH

-and-

Docket No. CU-L-88-29

LOCAL 930, N.U.P.E.

DECISION

On December 29, 1987, the Borough of West Long Branch ("Borough") filed a petition to clarify a negotiations unit represented by Local 930, N.U.P.E. ("Local 930") to exclude the Municipal Court Clerk. The Borough contends that the clerk is a supervisor under the Act. Local 930 disagrees.

The parties agreed to submit the matter to the Commission's Litigation Alternative Program and to be bound by my decision. A meeting was held April 18, 1988, at which the parties introduced documents and presented their positions.

The following facts appear. The Municipal Court Clerk works full time and reports to the Municipal Court Judge, who works part time. A part time clerk works with, performs essentially the same duties as, and takes direction from the municipal court clerk.

The Municipal Court Clerk docketts and collects payment for summonses, receives criminal complaints, sets and collects bail, commits and releases defendants from the County Correctional Institute, compiles the court calendar, issues bench warrants, prepares appeals for a transcriber, submits several monthly reports and does the court's banking.

The Municipal Court Clerk has not been involved in hiring, firing or disciplining Borough employees. If a problem arose with the part time clerk that might result in discipline, the Municipal Court Clerk would bring it to the Judge's attention. The Judge makes hiring and firing decisions and would deal with any disciplinary matters involving court employees.

Subsection 5.3 provides that:

...nor, except where established practice, prior agreement or special circumstances, dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership...

The Commission has defined a supervisor as an employee possessing the authority to effectively recommend hiring, discharge or discipline. Cherry Hill Tp. Dept. of Public Works, P.E.R.C. No. 30 (1970).

While the Municipal Court Clerk would be responsible to notify the judge of any work-related problem of the part time clerk, the judge would impose discipline. There is no evidence that this circumstance has occurred or that the Municipal Court Clerk possesses the authority to recommend discipline.

Given the Municipal Court Clerk's lack of authority to hire, fire, discipline or effectively recommend these actions, I conclude that the title should remain in the collective negotiations unit represented by Local 930.

  
Richard C. Gwin, Commission Designee

DATED: April 26, 1988  
Trenton, New Jersey