

D.R. NO. 89-17

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

In the Matter of

TOWN OF DOVER,

Public Employer,

-and-

Docket No. CU-89-26

F.M.B.A., LOCAL #60,

Petitioner-Employee Representative.

SYNOPSIS

The Director of Representation finds that a Fire Signal System Repairer performs firefighting functions, and clarifies a collective negotiations unit of firefighters to include the Signal System Repairer position.

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Appearances:

For the Public Employer
Pennella & Claps, Esqs.
(David Pennella, of counsel)

For the Petitioner
Scott Warner, Rep.

DECISION

On November 28, 1988, the Firemen's Mutual Benevolent Association Local #60 ("Association") of the Dover Fire Department filed a Clarification of Unit Petition with the Public Employment Relations Commission ("Commission"). The Association seeks to include Fire Signal System Repairer John Hosking ("Hosking") in a unit of firefighters employed by the Town of Dover ("Town"). The Town asserts that Hosking's title is inappropriate for inclusion in a unit of firefighters.

We conducted an administrative investigation in this matter. N.J.A.C. 19:11-2.2. The following facts appear.

The Dover Fire Department consists of four members: three firefighters and one fire signal system repairer (John Hosking).

All are full-time employees of the Town of Dover in the Fire Department. All four fight fires. Hosking started as a volunteer firefighter 30 years ago and has worked for the Town on a salaried basis for 20 years. He attended fire college and fire related training courses. Hosking's job is to answer fire and first aid calls, operate the first truck that responds to fire calls, administer first aid and perform fire rescue. He also washes and cleans fire trucks, performs minor maintenance and some housekeeping functions. Thomas Thomas ("Thomas"), a firefighter and member of the bargaining unit, stated that the three firefighters and Hosking all perform the same functions. He said that one of the four firefighting employees is at the firehouse at all times to answer calls, respond to fires and administer first aid. He described the jobs of all four firefighting employees as "identical."

The four employees are directed by Fire Chief Mark Doyle and Purchasing Agent Paul McDougal, who is responsible for devising the weekly and monthly work schedules. All firefighting employees work rotating, eight-hour, straight shifts. All use the same firefighting vehicles and equipment; there is no specialized use of equipment among the four employees. All work in the firehouse under identical conditions. They receive the same clothing allowance and fringe benefits, including sick leave and health care benefits. Vacation leave is tied to longevity, with Hosking receiving the most as he is the most senior firefighting employee. The work rules for all are identical and were characterized as "whatever the Chief says to do." Compensation is set by the Town's Board of Aldermen and its

Fire Committee. Both Hosking and Thomas believed that the salary scale is based solely on longevity and is not affected by job titles. Both Hosking and Thomas stated that elimination of the Captain title has precluded promotional opportunities for the four nonsupervisory firefighting employees.

Hosking is not certified as a firefighter; his official civil service title is "Signal System Repairer, U.F.D." The description of his title states: "...when necessary, responds to fire alarms and participates in extinguishing fires...." The remainder of the job description details various signal repair related tasks. Hosking stated that he has never repaired fire signals. He cuts down broken fire alarm wires at fire scenes, as do the other three men. At one time, when there were fire alarm boxes throughout the Town, they were repaired by a supervisor. Hosking stated that the supervisor would be accompanied on repair calls by the firefighter on duty including, but not exclusively, Hosking. He also stated that repairs were always performed by the supervisor. However, the boxes have been removed. Thomas stated that the only related duty remaining is maintenance and repair of the firehouse alarm board; that task is performed by all four men. When asked to compare Hosking's job to the rest of the negotiations unit, Thomas stated that "all (four men) do the same (thing), no matter what it is."

The Town does not dispute Hosking's actual job duties. Counsel for the Town stated that it has no reason to disbelieve any of Hosking's statements or descriptions of his work. The Town solely questions the propriety of including the Signal System Repairer title in the existing unit of firefighters.^{1/}

N.J.S.A. 34:13A-15 defines Public Fire Department as "...any department of a municipality, county, fire district of the State or any agency thereof having employees engaged in firefighting ..." (emphasis supplied). Hosking's firefighting duties include "...pulling a fire hose, raising ladders and occasionally spraying water on fires," a definition of firefighting formulated by a Commission Hearing Officer and adopted in later cases. City of Plainfield, D.R. No. 82-39, 8 NJPER 158 (¶13068 1982), aff'g H.O. No. 82-5, 7 NJPER 525 (¶12232 1981). See also State of New Jersey, P.E.R.C. No. 86-98, 12 NJPER 206 (¶17081 1986).

In determining appropriate unit structure, the Commission's primary focus is on job duties, rather than job title. In Hackensack, the Director of Representation stated:

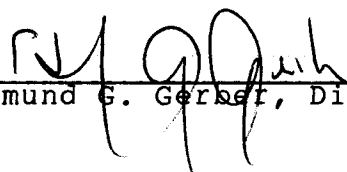
1/ The Town is concerned with the effect of including the signal system repairer title in the existing unit. In City of Hackensack, D.R. No. 79-27, 5 NJPER 150 (¶10085 1979), the Director of Representation stated that inclusion of nonfirefighting personnel in a unit with firefighters would deprive the firefighters of coverage under the Interest Arbitration Act (N.J.S.A. 34:13A-15 et seq.). In Camden Cty., D.R. No. 82-14, 7 NJPER 631 (¶12283 1981), the Director stated that "...in order to attain eligibility for the statutory compulsory arbitration benefits, it must be demonstrated that the individuals must actually be 'engaged in firefighting.'" 7 NJPER 682. It appears that Hosking is engaged in firefighting, and that his inclusion in the existing unit would not prejudice the rights of its members to interest arbitration.

An employee's certification in a particular job title or employment in a position with a particular job description is not a compelling factor in a determination concerning unit placement where the record evidence indicates that actual job performance bears little or no resemblance to the underlying certification or job description. Hackensack at 154.

To determine whether employees were performing firefighting functions, the Commission has considered several factors including general working conditions, lines of supervision, work schedules, equipment used, work rules, fringe benefits, promotional opportunities, clothing allowances and the nature of the specific work performed. When asked about each of these factors, Hosking's response was the same -- every task he performs and every condition he works under is identical to the work and working conditions of the other firefighters. The sole difference between Hosking and the others is his title. In Hackensack, the Commission stated that certification in a title is not dispositive of unit placement if the certification lies dormant and has no relationship to the actual work performed. The signal system repairer title is dormant in the Town of Dover.

Based upon the record in this case, we find that John Hosking performs firefighting functions and that his inclusion in the existing unit of firefighters is appropriate. We clarify the existing unit to include the position of Signal System Repairer, U.F.D..

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerhart, Director

DATED: February 16, 1989
Trenton, New Jersey