

D.R. NO. 80-16

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

In the Matter of

COUNTY OF ESSEX,

Public Employer,

-and-

DOCKET NO. RO-80-29

ESSEX COUNTY CRAFT FORMANS UNION.

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among all craft supervisors employed by the County of Essex to ascertain whether they desire to be represented for the purpose of collective negotiations by the Essex County Craft Foremans Union.

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Appearances:

For the Public Employer  
Grotta, Glassman & Hoffman  
(Thomas Savage, of Counsel)

For the Petitioner  
William Salvatore, President

DECISION AND DIRECTION OF ELECTION

On August 28, 1979, a Petition for Certification of Public Employee Representative, accompanied by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by the Essex County Craft Foremans Union (the "Union") with respect to certain craft supervisors employed by the County of Essex (the "County"). <sup>1/</sup> The undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts.

1/ As originally filed, the Union sought a unit described as: "Included - All craft foreman [sic]. Excluded - All supervised craft." On September 21, 1979, the Union amended its Petition to read: "Included - All craft supervisors employed by Essex County. Excluded - All other employees, including other supervisors, non-supervising craft workers, police, managerial executives, confidential employees and professionals."

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The County of Essex is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

3. The Essex County Craft Foremans Union is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Union has filed a Petition seeking a proposed collective negotiations unit comprised of: all craft supervisors employed by the County of Essex, excluding all other employees including other supervisors, non-supervising craft workers, police, managerial executives, and confidential and professional employees. The Union seeks a secret ballot election.

5. The County does not consent to a secret ballot election. Further, it has not furnished a written statement of

position relating to the appropriateness of the proposed unit. Rather, at an informal conference convened among the parties, the County advised the staff agent assigned to this matter that it opposed the creation of an additional negotiations unit.

6. A Petition for Certification of Public Employee Representative having been filed, and the parties not having agreed to a secret ballot election, a dispute exists, and the matter is properly before the undersigned for determination.

7. On October 29, 1979, the undersigned notified the parties that on the basis of the investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation existed in a prima facie appropriate unit. The undersigned advised the parties that the Act provides for separate unit representation for supervisors and nonsupervisors, and accords craft employees a craft option which permits separate representation. <sup>2/</sup> The undersigned provided an additional opportunity to all parties to present evidence as well as statements of position relating to the Petition. The undersigned stated that in the absence of any substantial and material disputed factual issues, he would thereafter issue a decision and direction of election herein. No further evidentiary proffer or statement has been provided by the parties.

2/ Although there is a unit of county craft employees, the representative of that unit has advised the Commission that it disclaims any representation of supervisors. If, as it is asserted by the County, the craft foremen involved herein have been treated in the past as part of the craft unit, there does not appear to be an established practice or prior agreement predating the passage of the Act, or a special circumstance, to warrant the continued inclusion of supervisors as part of the existing craft unit.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds that the appropriate unit for collective negotiations is: all craft supervisors employed by the County of Essex, but excluding all other employees including other supervisors, nonsupervising craft workers, police, managerial executives, confidential and professional employees.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the County is directed to file with the undersigned and with the Union an election eligibility list, consisting of an alphabetical listing of the names of

all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list shall be simultaneously filed with the Union with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote whether or not they desire to be represented for the purpose of collective negotiations by the Essex County Craft Foremans Union.

The exclusive representative, if any, shall be determined by a majority of the valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: November 19, 1979  
Trenton, New Jersey