

D.R. NO. 86-26

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

In the Matter of

TOWNSHIP OF CRANFORD,

Public Employer,

-and-

DOCKET NO. RO-86-112

I.S.S.T.-N.F.I.U.,

Petitioner.

SYNOPSIS

The Director dismisses the Union's challenges to the eligibility of certain voters in an approved unit whose ballots were sufficient in number to effect the outcome of the secret ballot election. He determines that two voters were regular part-time employees and one voter was a regular full-time employee of the Township. Accordingly, the Director sets a date for the opening and counting of the challenged ballots

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Appearances:

For the Public Employer  
Savage & Serio, Esqs.  
(Thomas J. Savage, of counsel)

For the Petitioner  
Henry F. Schickling, President

DECISION

On May 8, 1986, the Public Employment Relations Commission ("Commission") conducted a secret ballot election among municipal employees of the Township of Cranford ("Township"), pursuant to an Agreement for Consent Election executed by the International Society of Skilled Trades-National Federation of Independent Unions ("Union") and the Township. At the election, challenges were asserted to the eligibility of certain voters and their ballots are sufficient in number to affect the results of the election. We authorized an administrative investigation of the challenges [see, N.J.A.C. 19:11-9.2(k)] and make the following findings:

1. The administrative investigation has not revealed any

substantial and material factual issues which would more appropriately be resolved at a hearing nor have substantial and material factual issues been placed in dispute by the parties. Accordingly, the disposition of this matter may properly be based on the administrative investigation. (See, N.J.A.C. 19:11-2.6).

2. On February 25, 1986, the Union filed a representation petition, supported by an adequate showing of interest, with the Commission. The Union sought to represent a unit of "all secretaries, clerks, police dispatchers, police maintenance, full and part time," excluding "all department heads, police, fire and all blue collar Department of Public Works employees and all other employees."

3. On April 3, 1986, the parties executed an Agreement for Consent Election, pursuant to the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). On April 7, we approved the Agreement. The unit was described as:

Included: All nonprofessional municipal employees employed by the Township of Cranford.

Excluded: All other employees including police, firefighters, supervisors, managerial executives within the meaning of the Act, department heads, confidential employees, seasonal employees, sub-code officials, part-time clericals employed by the Board of Adjustment and Planning Board, and employees in other negotiations units, including crossing guards.

4. We conducted an election on May 8, 1986; 39 valid votes were counted - 21 votes were cast for the Union and 18 votes were cast for no representative. There also were 3 unresolved challenged

votes cast which were sufficient in number to affect the results of the election.

5. All the unresolved challenged votes were cast by employees whose names were on the eligibility list supplied by the employer. The challenges, lodged by the Union, were made to the following employees: Barbara Ragone, parking lot attendant, who was challenged as a casual employee; Susan Scanlon, administrative secretary, who was challenged because her salary is paid through a federally funded Community Block Grant; and Eileen Williams, a clerk typist who also was challenged because she is paid through the same grant. The election agent solicited additional facts concerning the employment status of the above-named voters from the employer and Union representatives.

On May 28, 1986, we issued a letter reviewing the parties' positions, including their factual allegations about the working hours and terms of employment of the employees whose ballots were challenged. We advised the parties that under relevant case law Ragone appeared to be a regular, part-time employee whose title was appropriately included in the bargaining unit. We also advised the parties that Scanlon and Williams appeared to be regular employees whose titles should be in the unit despite the federal funding of their positions. We concluded that all three employees were eligible to vote in the election. Finally, we afforded the parties seven days to present additional statements of position and factual assertions.

On June 4, 1986, the Union filed its response to our letter, essentially restating that Scanlon and Williams were ineligible to vote and inappropriately included in the petitioned-for unit because of the federal source of the funding of their positions. It also asserted that Barbara and Lisa Ragone, mother and daughter, "substitute" for each other as parking lot attendants and that the former works "approximately one day per week for only 26 weeks."

The Employer has submitted Ragone's time sheets for 1985-86. They reveal that from January 1, 1985 until October 26, 1985 Ragone worked approximately 15 hours per week, including about 10 hours on Saturdays. At the end of October, Ragone was apparently hospitalized. In November and December, she averaged about 7 hours per week. From January through March, 1986, Ragone worked approximately 10 hours per week, mostly on Saturdays.

The Commission has differentiated "casual" employees from "regular" part-time employees. The former, in contrast to the latter, work on an occasional or sporadic basis; their contact with the employer is too tenuous and infrequent to warrant inclusion in a unit with regular employees. In determining whether a particular individual has casual status, we focus on whether the employee has the requisite regularity and continuity of employment. See, Mt. Olive Board of Education, P.E.R.C. No. 86-66, 8 NJPER 102 (¶13041 1982), Rutgers, The State University, E.D. No. 76-35, 2 NJPER 176 (1976), aff'd and modified, P.E.R.C. No. 76-49, 2 NJPER 229 (1976),

aff'd App. Div. Dkt. No. A-1652-76 (1977), certif. den. 76 N.J. 234 (1978).

The Commission has also determined that generally, employees who work less than 1/6 of the number of hours worked by the regular full-time and part-time employees are "casual" and not qualified for representational rights under the Act. Mt. Olive Board of Education, supra, and Bridgewater-Raritan Regional Board of Education, D.R. No. 79-12, 4 NJPER 444 (¶4201 1978). For most of 1985, Ragone worked about 15 hours per week. After a brief period in which she worked about seven hours per week, she increased her schedule to about 10 hours. These hours represent 1/5 or more of the number of hours worked by full-time Township employees. She has held the position for approximately six years. Accordingly, we find that Ragone is a regular, part-time employee, properly included in the stipulated unit and eligible to vote in the secret ballot election. See, Township of North Brunswick and North Brunswick Employees Organization, D.R. No. 85-16, 11 NJPER 155 (¶16068 1985).

Susan Scanlon has been employed as a full-time, salaried Administrative Secretary to the Director of Community Development since 1980. She receives full benefits, including sick leave, vacation, and prescription and dental plans. Her salary is paid through a federally funded Community Development Block Grant administered by the County. Eileen Williams has been a regular, hourly paid, part-time clerk typist since 1980 or 1981. She works approximately 15 hours per week and receives no additional

benefits. She also is paid through the same Community Block Grant. The Union alleges that these two employees are inappropriate for inclusion in the unit.

In Passaic County Board of Chosen Freeholders, D.R. No. 78-29, 4 NJPER 8 (¶4066 1977), the Director determined that CETA employees who worked under the same conditions as "regular" blue-collar employees and received equivalent pay and other benefits shared a "community of interest" with the regular employees that was not outweighed by the temporariness of federally funded CETA employment. See also, Township of Mine Hill, D.R. No. 79-4, 4 NJPER 294 (¶4148 1978).

Scanlon is one of six Administrative Secretaries in the unit. None of the ballots cast by the five other secretaries were challenged. Scanlon receives comparable pay and benefits as those five secretaries. She has been employed in the position for about six years. Moreover, we cannot detect any relevant distinction between the types of federal funding, i.e., a CETA-funded title versus a Block Grant-funded title, and therefore, a Block Grant title which is otherwise appropriate for inclusion in a negotiations unit should not be excluded from the unit solely due to the fundings source. Accordingly, we find that Scanlon shares a community of interest with other employees in the unit and is eligible to vote in the election.

Williams is one of five clerk typists in the unit. None of the ballots cast by the other typists were challenged. Furthermore,

she performs functions similar to full-time unit employees and thus shares a community of interest with them. See, North Brunswick, supra. We also see no applicable difference between the sources of federal funding (CETA and Block Grants) which warrants exclusion of the title is from the unit. Accordingly, we find that Williams is eligible to vote in the election.

We determine that the titles of parking lot attendant, administrative secretary and clerk typist are properly included in the petitioned-for unit and direct that the ballots of Ragone, Scanlon and Williams shall be opened and counted on July 14, 1986, at the P.E.R.C. Offices in Trenton. We shall thereafter issue a final election tally in this matter.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber  
Director of Representation

DATED: June 30, 1986  
Trenton, New Jersey