

D.R. NO. 81-47

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

In the Matter of

BOROUGH OF WALLINGTON,

Public Employer-Petitioner,

-and-

DOCKET NO. RE-81-8

COUNCIL NO. 5, NEW JERSEY  
CIVIL SERVICE ASSOCIATION,

Employee Representative.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election in the absence of substantial and material disputed factual issues. The employer seeks an election, claiming a good faith doubt of the incumbents majority support.

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

In the Matter of

BOROUGH OF WALLINGTON,

Public Employer-Petitioner

-and-

DOCKET NO. RE-81-8

COUNCIL NO. 5, NEW JERSEY  
CIVIL SERVICE ASSOCIATION,

Employee Representative.

Appearances:

For the Public Employer-Petitioner  
Hogan and Palace  
(Thomas Hogan of Counsel)

For the Employee Representative  
Gruen and Ritvo  
(Harold Ritvo of Counsel)

DECISION AND DIRECTION OF ELECTION

On April 28, 1981, a Petition for Certification of Public Employee Representative (Public Employer Petition) was filed with the Public Employment Relations Commission (the "Commission") by the Borough of Wallington (the "Borough") raising a question concerning the continued majority status of the current exclusive representative, Council No. 5, New Jersey Civil Service Association (Wallington D.P.W. Employees) ("Council No. 5") with regard to a unit of public works employees employed by the Borough.

In accordance with N.J.A.C. 19:11-2.2(a), 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.

The staff member assigned to investigate the Petition scheduled a conference for May 14, 1981. On May 13, 1981, Council No. 5 notified the staff member that it would not attend the conference. The staff member met with the Borough, as scheduled, and spoke with Council No. 5 later in the day. Council No. 5 stated that there are no substantial and material factual issues in dispute but it will not enter into an Agreement for Consent Election.

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 after an evidentiary 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 Borough of Wallington 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. Council No. 5, New Jersey Civil Service Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. The Borough has filed a Petition for Certification of Public Employee Representative expressing a good faith doubt concerning the continued majority status of Council No. 5, which is the

current exclusive representative of a negotiations unit consisting of the Borough's public works employees. The Borough's Petition is supported by a documentary submission which demonstrates objective considerations that it has some reasonable grounds for believing that Council No. 5 has lost its majority status.

5. The Borough will consent to a secret ballot election.

6. Council No. 5 will not consent to a secret ballot election to be conducted by the Commission.

7. The parties have been advised of their responsibilities pursuant to N.J.A.C. 19:11-2.6(a).

8. There are no substantial and material factual issues in dispute.

Based on the above, it appears to the undersigned that a valid question concerning representation exists and that an election will reflect the free choice of the employees, thereby effectuating the policies of the Act.

Accordingly, pursuant to N.J.A.C. 19:11-2.6(b)(3) the undersigned directs that a secret ballot election be conducted among employees in the following unit: all non-supervisory employees employed by the Borough of Wallington Department of Public Works excluding managerial executives, confidential employees, professional and craft employees, policemen and supervisors within the meaning of the Act. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that

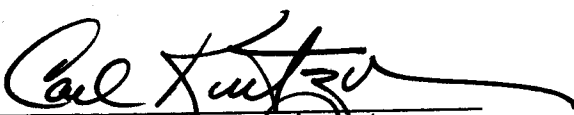
period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period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

Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with Council No. 5 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 must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with Council No. 5 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 on whether or not they desire to be represented for the purpose of collective negotiations by Council No. 5, New Jersey Civil Service Association (Wallington D.P.W. Employees).

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

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: June 15, 1981  
Trenton, New Jersey