

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ADMINISTRATOR OF REPRESENTATION PROCEEDINGS

In the Matter of

CITY OF HOBOKEN,

Public Employer,

-and-

TEAMSTERS LOCAL 97 OF
NEW JERSEY, IBT,

DOCKET NO. RO-85-12

Petitioner,

-and-

HOBOKEN MUNICIPAL EMPLOYEES
ASSOCIATION, a/w CIVIL SERVICE
ASSOCIATION,

Intervenor.

SYNOPSIS

The Administrator of Representation Proceedings, on the basis of an administrative investigation, directs an election among non-uniformed, non-supervisory employees of the City of Hoboken. The Administrator rejected a claim by the incumbent organization that foremen should be included in the unit and are eligible to participate in the election, since foremen have historically been excluded from the unit.

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Appearances:

For the Public Employer
Edwin Chius, Administrator

For the Petitioner
Pat Nardolilli, Business Agent

For the Intervenor
Philip Feintuch, Attorney

DECISION AND DIRECTION OF ELECTION

On August 10, 1984, a Petition for Certification of Public Employee Representative, supported by a valid showing of interest, was filed with the Public Employment Relations Commission ("Commission") by Teamsters Local 97 of New Jersey, IBT ("Teamsters").

The Teamsters seeks to represent a unit of employees employed by the City of Hoboken ("City") in certain specific titles listed in "Appendix A" attached to the Petition, but excluding "professional employees, guards and supervisors as defined in the law," and also excluding employees listed in "Appendix B." ^{1/}

The petitioned-for employees currently comprise a collective negotiations unit represented by the Hoboken Municipal Employees Association, affiliated with Civil Service Association ("Association"). The Association has intervened in this matter based on a collective negotiations agreement between the Association and the City which expired December 31, 1983. The negotiations unit is described in Article I - Recognition as "all non-uniformed employees in the bargaining unit as listed in Appendix A." Further, the recognition clause states that "...employees listed in Appendix B are recognized by the City and the Association as part of management. These positions include supervisory, managerial, administrative,

^{1/} Titles listed in Appendix A include: "Laborers, Truck Drivers, Equipment Operators, Building Service Workers, Building Maintenance Workers, Bus Driver, Maintenance Repairman, Clerks, Clerk-Typists, Principal Clerks, Legal Stenographers, Clerk Stenographers, Housing Inspectors, Assistant City Clerk, Radio and Fire Alarm Dispatcher, Recreation Assistants, Traffic and Signal Repairman, Sewage Plant Repairman, Sewage Plant Operator, Stock Clerk, Health Aides, Nurses, Junior Library Assistant, Senior Library Assistant, Junior Librarian, Senior Librarian."

Titles listed in Appendix B include: "Foremen, Superintendents, Supervisors, Division Directors, Department Directors, City Clerk, Deputy Court Clerk, Mayor's Confidential Aide, Administrative Secretary, Secretarial Assistant, Tax Collector, Accountants, Assistant Superintendents, Senior Accountants, Comptroller, Chief Housing Inspector, Recreation Coordinator, Violations Clerk, Court Clerk, Assistant City Attorney, Legal Assistants, Assessors, Health Officer, Construction Officials, Sub-Code Officials."

professional and confidential employees." 2/

At an informal conference conducted by a Commission staff agent, the Teamsters and the Association entered into an Agreement for Consent Election that provided for an election to be conducted among the collective negotiations unit described as "all non-uniformed non-supervisory employees employed by the City of Hoboken, including the titles listed in Appendix A attached hereto and part hereof, excluded: supervisors within the meaning of the Act, managerial executives, police, firefighters, confidential employees, seasonal employees, and employees in Appendix B." The Association nevertheless urged at the conference that, although the title "foremen" appears as an excluded title specifically listed in Appendix B, the foremen should nevertheless be eligible to vote in the election. Therefore, the Agreement for Consent Election entered into by the Teamsters and the Association provided for a challenged ballot for foremen. The City subsequently signed the consent agreement with the reservation that "management (including foremen) and confidential employees are excluded."

Therefore, since there is no agreement among the parties concerning the appropriateness of the collective negotiations unit, the matter is properly before the undersigned for a determination.

Based upon the administrative investigation the undersigned finds and determines as follows:

2/ Petitioner's attachments referencing Appendix "A" and Appendix "B" are identical to contractual Appendices "A" and "B".

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

3. Teamsters Local 97 of New Jersey, IBT and the Hoboken Municipal Employees Association, affiliated with Civil Service Association, are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Teamsters has filed a Petition seeking to be the certified representative of all employees currently represented by the Association.

5. The Association claims that the foremen are appropriately includable in the unit, notwithstanding the language in the parties' most recent collective negotiations agreement which excludes titles listed in Appendix B, including foremen.

The Association has failed to submit any documentation supportive of its claim that the City has agreed with it that

foremen are to be included in the unit. Rather, it would appear that the City and the Association have a history of treating the title as an excluded position under the recognition clause of the parties' agreement.

Essentially, the Association's position is that its present unit should be clarified to include the foreman classification as a nonsupervisory category of employees. This request is premature. The Commission's policy is not to process requests for clarification of an existing collective negotiations unit during the pendency of a representation proceeding challenging the incumbent's majority status. See State of New Jersey, D.R. No. 81-20, 7 NJPER 41 (¶ 12019 1980) and Morris Cty. Park Comm., D.R. No. 80-17, 6 NJPER 37 (¶ 11018 1980).

Therefore, the undersigned hereby directs that an election be conducted among the employees in the current collective negotiations unit of all non-uniformed employees employed by the City of Hoboken including employees in the titles listed in Appendix A but, excluding supervisors within the meaning of the Act, managerial executives, police, firefighters, confidential employees, seasonal employees ^{3/} and employees in titles in Appendix B (as set forth more fully in footnote 1).

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described

^{3/} The parties have agreed to the specification of this category as an exclusion.

above. 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 as of August 29, 1984, 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.

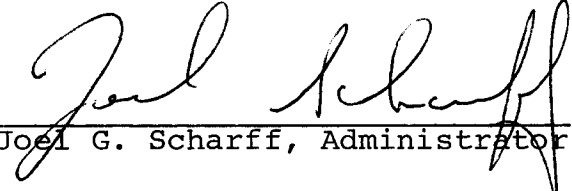
Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with the Teamsters and the Association, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. 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 the Teamsters and the Association 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 Hoboken Municipal Employees Association, a/w Civil Service Association, or Teamsters Local #97 of New Jersey, or no union.

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 ADMINISTRATOR
OF REPRESENTATION PROCEEDINGS


Joel G. Scharff, Administrator

DATED: October 3, 1984
Trenton, New Jersey