

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

In the Matter of

CITY OF JERSEY CITY,

Public Employer,

-and-

AUTOMOBILE LODGE NO. 447, DISTRICT 15,
INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, AFL-CIO,

Docket No. RO-76-161

Petitioner,

-and-

LOCAL 245, JERSEY CITY PUBLIC EMPLOYEES, INC.,

Intervenor.

SYNOPSIS

The Director of Representation Proceedings dismisses as untimely a Petition for Certification of Public Employee Representative which was filed three months after the intervenor was certified as the exclusive representative of a unit that included the petitioned for employees. The Director finds that no substantial or material factual issues are presented which would warrant deviation from the Commission's twelve-month certification bar rule.

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DECISION

A Petition for Certification of Public Employee Representative was filed on June 30, 1976 with the Public Employment Relations Commission by Automobile Lodge No. 447, District 15, IAMAW, AFL-CIO (hereinafter "Lodge #447") seeking a secret ballot election for certification of a unit of approximately 53 employees in the Automotive Services Division, Department of Public Works, City of Jersey City (hereinafter the "City"). More specifically, the unit proposed by Lodge #447 would include "Mechanics, Helpers, Drivers, Foremen, Garage Attendants, Welders, Machinists, Bodymen, Glaziers and Parts Personnel" and exclude office clerical and other employees. The petition was supported by an adequate showing of interest. Local 245, Jersey City Employees, Inc. (hereinafter "Local #245") has sought intervention in these proceedings based upon a Certification of Representative issued by the Commission on April 5, 1976 certifying Local #245 as the exclusive public employee representative of employees in a unit

described as "Included: All Blue and White Collar employees and craft employees in the Department of Public Works and in the Division of Human Resources in the Parks and Recreation Section of the City of Jersey City, as well as engineers in the Engineering Department, but excluding other professional employees, managerial executives, confidential employees, police and supervisors within the meaning of the Act." ^{1/}

The undersigned ^{2/} has caused an administrative investigation of the petition to be conducted in order to determine the facts. All parties have been provided with an opportunity to present documentary and other evidence raising substantial and material factual issues which would warrant the convening of a hearing pursuant to N.J.A.C. 19:11-1.12(c).

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 a hearing. Pursuant to N.J.A.C. 19:11-1.12(c), 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 Jersey City is a Public Employer within the meaning of the New Jersey Employer-Employee Relations Act and is subject to the provisions thereof.

^{1/} Local #245's request for intervention is hereby granted.

^{2/} On June 22, 1976 the Executive Director, Jeffrey B. Tener, was sworn in as full-time Commission Chairman. See N.J.S.A. 34:13A-5.2, as amended by Section 3 of P.L. 1974, c. 123. Effective immediately thereafter, the Commission approved the elimination of the Executive Director position, and named the Director of Representation Proceedings as its designee to perform those responsibilities previously exercised by the Executive Director in representation proceedings.

3. Both Automobile Lodge #447, District 14, IAMAW, AFL-CIO and Local #245, Jersey City Public Employees, Inc. are employee representatives within the meaning of the Act and are subject to the provisions thereof.

4. The Public Employer having declined to grant recognition in the unit proposed above, this matter is appropriately before the undersigned for determination.

5. In statements filed with the undersigned both the City and Local #245 object to the instant petition, arguing that it has been untimely filed and accordingly, barred from consideration by the Commission's April 5, 1976 certification of Local #245 as exclusive representative of employees described therein.^{3/} Lodge #447 has not in writing responded to these arguments.

6. N.J.A.C. 19:11-1.15(b) provides:

"Where there is a certified or recognized representative, a petition will not be considered as timely filed if during the preceding 12 months an employee organization has been certified by the Executive Director or the Commission as the majority representative of employees in an appropriate unit or an employee organization has been granted recognition by a public employer pursuant to Section 14 of this Subchapter."

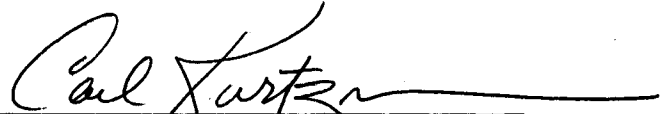
As stated above, Lodge #447 has not presented to the undersigned any statement as to why N.J.A.C. 19:11-1.15(b) should not apply or as to why the instant petition should be considered timely. Additionally, there is no dispute that the employees described in the petition are included within the unit represented by Local #245 and certified by the Commission approximately three months before the filing of the instant petition.

^{3/} On March 25, 1976 the Commission held a secret ballot election among the employees in the unit described in the certification. The employee organizations participating in the election were Local 245, then the incumbent representative, and Local 246, Jersey City Public Employees, Inc., a petitioner which sought representation of the unit of employees. A majority of employees cast ballots for Local #245, and the appropriate certification thereafter issued.

7. Lodge #447 has not requested withdrawal of its petition. Accordingly, the undersigned shall dismiss the petition pursuant to N.J.A.C. 19:1-1.12(b) for the aforesaid reasons.

The Petition for Certification of Public Employee Representative filed by Lodge #447, District 15, IAMAW, AFL-CIO seeking certification of a unit of "Mechanics, Helpers, Drivers, Foremen, Garage Attendants, Welders, Machinists, Bodymen, Glaziers and Parts Personnel" employed by the City of Jersey City is hereby dismissed.

BY ORDER OF THE DIRECTOR OF REPRESENTATION PROCEEDINGS



Carl Kurtzman, Director
Representation Proceedings

DATED: Trenton, New Jersey
September 17, 1976