

D.R. NO. 2000-15

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

In the Matter of

NORTH BRUNSWICK TOWNSHIP
PUBLIC LIBRARY,

Public Employer,

-and-

Docket No. RO-2000-89

IUPC&PE LOCAL 911,

Petitioner.

SYNOPSIS

The Director of Representation orders an election among a unit of all white-collar library employees. The Employer had refused to consent to an election, stating that it saw no valid need or purpose for a union. The Director found that the Employer's opposition to the petition was unsupported by any valid reasons, and that the Employer's expressed preference for having its employees remain unrepresented was not a sufficient basis to deny employees representational rights under the Act.

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Appearances:

For the Public Employer
Greenbaum, Rowe, Smith, Ravin, Davis & Himmell, attorneys
(Keita Archie Young, of counsel)

For the Petitioner
Egan & Novack, attorneys
(Thomas M. Egan, of counsel)

DECISION AND DIRECTION OF ELECTION

On March 2 and April 4, 2000, Local 911, International Union of Production, Clerical and Public Employees (Local 911) filed a Petition for Certification and an Amended Petition with the Public Employment Relations Commission seeking to represent all white collar employees employed by the North Brunswick Township Public Library (Library).

The Library opposes the petition, contending that there is no purpose or need for a union. Local 911 asks that we order an election among the Library employees.

We have conducted an administrative investigation into the petition. N.J.A.C. 19:11-2.2 and 2.6. On May 26, 2000, I advised the parties that I was inclined to direct an election in the petitioned-for unit and invited the parties to submit additional evidentiary materials and/or briefs in support of their positions. No additional submissions were received. No facts have been placed in dispute which would require convening an evidentiary hearing, and therefore, the disposition of this matter is properly based on our administrative investigation. N.J.A.C. 19:11-2.6(b). I find the following facts.

Local 911 filed a valid Petition for Certification, accompanied by an adequate showing of interest as required by the Commission's Rules. It seeks to represent the Library's white-collar employees, who are currently unrepresented. There are approximately 15 employees in the proposed collective negotiations unit, including librarians and library assistants. The Library also employs a building maintenance worker and two library pages. Local 911 does not seek to include the building maintenance worker in the white collar unit, nor does it seek to represent the pages, as they are part-time high school students, employed too casually to be appropriate for the unit.

ANALYSIS

The Library argues that it has effectively operated without a union since the 1950's, that the formation of a union will not

necessarily guarantee that the employees will receive greater benefits, and that the representation process and procedures will take away from the Library's limited funds which may be otherwise used to improve library services. The Library feels that while there is no purpose or need for a union, it is willing to sit down and talk openly with its employees to hear their concerns.

Local 911 asserts that the Library has provided no legal justification to block an election, and that the Library's long non-union history does not proscribe the employees' right to a representation election pursuant to N.J.S.A. 34:13A-5.3. Local 911 requests that an election be directed.

N.J.S.A. 34:13A-5.3 provides in part:

Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join, and assist any employee organization or to refrain from any such activity....

The Library's expressed preference for having its employees remain unrepresented is not a sufficient basis to deny employees representational rights provided under the Act. The Act guarantees public employees the right to organize and be represented for collective negotiations. Employees' statutory rights cannot be emasculated simply because an employer believes negotiations will be costly or employees do not "need" a union. Public employees have a statutory right to select an employee representative of their own choosing or to collectively indicate that they wish not to be represented for purposes of collective negotiations. To implement

that right, the statute empowers this Commission to conduct elections to ascertain the "free choice of the employees." N.J.S.A. 34:13A-6. That choice is the employees' to make, not the employers' to impose.

The petitioned-for unit of all regularly employed white collar employees is prima facie appropriate. The Library's opposition to the petition is not supported by any valid reasons, and, therefore, does not constitute a sufficient basis to deny employees the representational rights guaranteed to them by the Act. See Tp. of Winslow, D.R. No. 87-8, 12 NJPER 784 (¶17298 1986); Bor. of Point Pleasant Beach, D.R. No. 87-4, 12 NJPER 657 (¶17247 1986); Tp. of Washington, D.R. No. 86- 15, 12 NJPER 226 (¶17093 1986); Bor. of Interlaken, D.R. No. 86-9, 12 NJPER 57 (¶17022 1985).

Based upon the above, I find that the petitioned-for employees have the right to be represented for purposes of collective negotiations by an organization of their own choosing, or choose not to be represented. Accordingly, I order an election among employees in the proposed unit as follows:

Included: All regularly employed white collar employees employed by North Brunswick Township Public Library.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, police employees, casual employees, and all other employees.

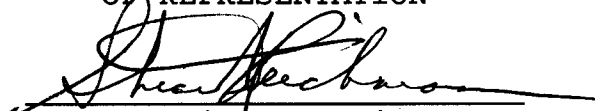
Pursuant to N.J.S.A. 34:13A-5.3 and 6, professional employees will be afforded a professional option ballot to determine whether they wish to be included in a collective negotiations with non-professional employees.

The election shall be conducted no later than thirty (30) days from the date of this decision. Those eligible to vote must have been employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, on vacation or temporarily laid off, including those in the 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. 19:11-10.1, the public employer is directed to file with us an eligibility list consisting of an alphabetical listing of the names of all eligible voters in the units, together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by us no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously provided to the employee organization with a statement of service filed with us. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Stuart Reichman, Director

DATED: June 15, 2000
Trenton, New Jersey