

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

In the Matter of

CITY OF TRENTON,

Public Employer,

-and-

TRENTON HOUSING AUTHORITY  
POLICE OFFICERS' ASSOCIATION,

Docket No. RO-76-45

Petitioner,

-and-

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, LOCAL 2286,

Intervenor.

SYNOPSIS

The Director of Representation Proceedings determines that Housing Guards employed by the City of Trenton are police employees within the meaning of the Employer-Employee Relations Act and should no longer be included in a city-wide blue collar negotiating unit. Upon stipulated facts, the Director finds that the Housing Guards are special police appointed by the City to patrol Housing Authority property. The Housing Guards appointed by the City have the authority to exercise all the powers and authority possessed by regular police officers in the enforcement of the laws of New Jersey and in the apprehension of offenders on Housing Authority property. The Housing Guards are charged with the responsibility to protect Housing Authority property and persons thereon. Pursuant to the Act, police employees may not be included in negotiating units with non-police employees in the absence of established practice, prior agreement or extraordinary circumstances. The Director finds, in agreement with the parties, that none of these factors exist to warrant the continued inclusion of Housing Guards in the blue collar unit.

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COUNTY AND MUNICIPAL EMPLOYEES,  
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DECISION

On October 1, 1976, a Petition for Certification of Public Employee Representative, supported by a valid showing of interest, was filed by the Trenton Housing Authority Police Officers' Association ("Petitioner") with respect to a proposed unit of employees holding the title of Housing Guard employed by the City of Trenton ("Public Employer"). On February 2, 1976, Local 2286, American Federation of State, County and Municipal Employees, AFL-CIO ("Local 2286") was granted intervenor status in this proceeding, pursuant to N.J.A.C. 19:11-1.13.

The Director of Representation Proceedings has caused an administrative investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts. All parties have been advised of their obligation under N.J.A.C. 19:11-1.12 and have been afforded an opportunity thereunder to present to the undersigned documentary and other evidence as well as statements of position relating to the Petition.

The parties have entered into a complete stipulation of facts with respect to the issues raised by the instant petition, and have submitted this matter to the Director of Representation Proceedings for a decision without a hearing based upon the stipulated facts. See N.J.A.C. 19:14A-3.4(b). The parties neither requested nor have filed briefs in this matter.

The undersigned, upon review of the entire record herein, namely the Petition and the Stipulations, finds and determines as follows:

1. The City of Trenton is a public employer within the meaning of the New Jersey ~~Employer-Employee~~ Relations Act, N.J.S.A. 34:13A-1.1 et seq., as amended (the "Act"), is subject to its provisions, and is the employer of the employees who are the subject of the instant petition.

2. The Trenton Housing Authority Police Officers' Association and A.F.S.C.M.E., Local 2286, are employee representatives within the meaning of the Act and are subject to its provisions.

3. The City of Trenton has refused to recognize the Petitioner as the exclusive negotiating representative of the employees in question. Accordingly, a question concerning representation exists and this matter is properly before the undersigned for determination.

4. The Housing Guards are currently included by contractual agreement within a city-wide negotiations unit consisting of blue collar employees represented by Local 2286. The instant petition was filed to remove the employees in the petitioned-for unit from the existing unit represented by Local 2286 and to request that a representation election be held in the petitioned-for unit.

The Petitioner contends that the Housing Guards are police within the meaning of the Act and therefore are precluded from inclusion

in a negotiations unit consisting of non-police employees. See N.J.S.A. 34:13A-5.3. The Public Employer and Local 2286 maintain that the Housing Guards are not police within the meaning of the Act, and that therefore they are properly included in the existing city-wide blue collar unit represented by Local 2286.

The threshold issue presented to the undersigned by the parties for determination herein is whether or not the Housing Guards are police employees within the meaning of the Act. The parties stipulate that in the event the Director of Representation Proceedings determines that the Housing Guards are police within the meaning of the Act, then, the most appropriate negotiations unit for the Housing Guards would be within the city-wide police unit. If "police" status is found, the petitioner requests permission to withdraw the instant petition from consideration by the Commission.<sup>1/</sup>

5. Housing Guards are appointed by the Public Employer pursuant to N.J.S.A. 40A:14-146 as special policemen. The Housing Guards are under the general supervision of the Trenton Chief of Police and are directly supervised by a regular Trenton Police Sergeant. While on duty upon Housing Authority premises, Housing Guards, as special policemen, possess and exercise all the powers and authorities possessed by regular police officers in the enforcement of the laws of New Jersey and in the apprehension of offenders.<sup>2/</sup> Housing Guards also have the authority to issue parking summonses to violators on Housing Authority property.

<sup>1/</sup> In the event the Housing Guards are determined not to be police within the meaning of the Act, the parties request that an evidentiary hearing be convened to determine the most appropriate unit for the representation of Housing Guards.

<sup>2/</sup> Pursuant to N.J.S.A. 40A:14-146, Housing Guards may perform their duties only within the municipality of their employ, unless in fresh pursuit of any person in accordance with N.J.S.A. 2A:156-1. The police powers exercised by the Housing Guards are also subject to the regulations promulgated by the Chief of Police.

The current job description for the Housing Guard position <sup>3/</sup> sets forth duties performed by persons in this title. Among other activities, Housing Guards are required to (a) patrol Housing Authority buildings and grounds, essentially in order to protect persons and facilities from trespass, damage and theft; (b) maintain order where people gather (c) make investigations on complaints regarding misconduct, suspicious behavior, illegal activities, improper conditions and other matters within the field of police operations (d) warn, apprehend and take into custody violators of the law and (e) give testimony in court.

Where crimes of a highly serious nature (such as murder, rape or armed robbery) are discovered upon Housing Authority premises, Housing Guards will normally provide the initial response to such crime, and upon arrival will attempt to gain control of the situation until the Trenton Police arrive. Thereafter, the Housing Guard Patrol will assist the Trenton Police Department at the crime scene. For crimes of a somewhat less serious nature, the record demonstrates that Housing Guards assume full charge of the investigation and the processing of such cases. <sup>4/</sup> In summary, the Housing Guards provide much, if not most, of the police services required upon Housing Authority premises.

Housing Guards receive  $3\frac{1}{2}$  weeks training at the Trenton Police Academy and must annually complete the firearms training course that is required of all regular and special policemen. Housing Guards wear uniforms and badges and carry ,38 caliber revolvers while on duty. They patrol in vehicles with red signal lights and with the markings "Housing Authority Police".

<sup>3/</sup> The current job description of the Housing Guard position, dated October 21, 1974, was part of the Stipulations given by the parties on March 18, 1976.

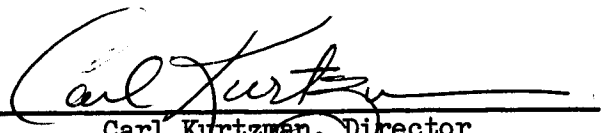
<sup>4/</sup> Housing Guards have investigated cases of assault and battery, robbery, breaking and entering, vandalism, juvenile problems, family disputes and have rendered other services that would otherwise be rendered by Trenton Police Patrol Units.

6. The record reveals that Housing Guards are engaged in traditional police work and that they are vested with and exercise general police powers. Based upon the foregoing, the undersigned finds Housing Guards are police within the meaning of the Act. See In re Borough of Avalon and P.B.A. Local No. 59, E.D. No. 76-23, 2 NJPER 59 (1976); In re Essex County Board of Freeholders and Essex County Institutional Patrolmen's Assn., E.D. 76-15, 1 NJPER 67 (1975).

Having determined that the Housing Guards are police within the meaning of the Act, the undersigned concludes that pursuant to N.J.S.A. 34:13A-5.3, no Housing Guard may be included in a negotiations unit that includes non-police employees.<sup>5/</sup>

7. Accordingly, the undersigned determines that the Housing Guards employed by the Public Employer are police within the meaning of the Act and may not be included in a negotiations unit that includes non-police employees. The Petitioner's request for withdrawal of the instant petition from consideration by the Commission is hereby approved.<sup>6/</sup>

BY ORDER OF THE DIRECTOR OF  
REPRESENTATION PROCEEDINGS

  
Carl Kurtzman, Director  
Representation Proceedings

DATED: Trenton, New Jersey  
April 14, 1977

<sup>5/</sup> As Local 2286 has represented the Housing Guards as part of its existing city-wide unit only since 1973, the undersigned concurs with the parties' stipulation that there is neither an established practice nor a prior agreement herein which would warrant the continued inclusion of the Housing Guards in the unit represented by Local 2286. See In re West Paterson Bd. of Ed. and West Paterson Education Assn., P.E.R.C. No. 77 (1973), appeal denied, P.E.R.C. No. 79, (1973).

<sup>6/</sup> The undersigned finds that a city-wide negotiations unit of police employees, including Housing Guards, is a prima facie appropriate unit.