

D.R. No. 2020-13

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

In the Matter of

TOWNSHIP OF SOUTH ORANGE VILLAGE,

Public Employer,

-and-

Docket No. RO-2020-030

TEAMSTERS LOCAL UNION NO. 125,
AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Petitioner.

SYNOPSIS

The Director of Representation orders that Teamsters Local Union No. 125, Affiliated with the International Brotherhood of Teamsters (Local 125), be certified as the exclusive representative of all regularly employed, non-supervisory clerical and blue collar employees employed by the Township of South Orange Village (Village) based upon a card check. The Village does not object to the representation petition, but refused to sign a Stipulation of Appropriate Unit. Since the New Jersey Employer-Employee Relations Act provides for certification by card check, and Local 125 complied with the card check rules, the Director certifies Local 125 as the majority representative for the unit in question.

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Appearances:

For the Public Employer, Apruzzese, McDermott, Mastro & Murphy, P.C., attorneys (Arthur R. Thibault, of counsel)

For the Petitioner, Oxfeld Cohen, P.C., attorneys (Sanford R. Oxfeld, of counsel)

DECISION

On December 17, 2019, Teamsters Local Union No. 125, Affiliated with the International Brotherhood of Teamsters (Local 125), filed a petition for certification of public employee representative seeking to represent a unit of clerical and blue collar employees employed by the Township of South Orange Village (Village). Local 125 seeks certification by a check of authorization cards. The petition was accompanied by authorization cards signed by a majority of employees, who are currently represented by South Orange Municipal Employees Union

(SOMEU),^{1/} in the petitioned-for unit.

We have conducted an administrative investigation into this matter to determine the facts. The disposition of the petition is properly based upon our administrative investigation. No substantial and disputed material facts require us to convene an evidentiary hearing. N.J.A.C. 19:11-2.2, -2.6. I find the following facts.

On December 19, 2019, SOMEU President Kenneth Greene filed a certification disclaiming SOMEU's interest in representing the petitioned-for unit.

On December 20, 2019, I issued a letter to the Village, together with a copy of the petition, a Notice to Employees (Notice) for posting by the Village, and a Certification of Posting. The letter solicited, among other items, an alphabetical list of employees in the proposed unit, the names of any organizations which have claimed an interest in representing any of the employees in the proposed unit within the past 12-month period, and any existing or recently expired collective negotiations agreements covering any of the petitioned-for employees.

On December 28, 2019, the Village provided the Certification of Posting signed by the Village Administrator on the same date,

^{1/} On November 14, 2018, SOMEU was certified as the exclusive majority representative for all regularly employed, non-supervisory clerical and blue collar employees employed by the Village (Dkt. No. RO-2019-011).

an alphabetized list of eligible employees, and a 2015-2018 memorandum of agreement between the Village and OPEIU Local 32, the petitioned-for employees' majority representative at that time. The Notice has been posted for the requisite period. N.J.A.C. 19:11-2.4(c). The authorization cards that Local 125 provided with the petition are signed by a majority of the employees identified on the Village's list. See N.J.A.C. 19:11-2.6(b). The Village has not provided an indication as to whether any other organizations have expressed an interest in representing the petitioned-for employees.

On December 30, 2019, the Village filed a letter specifying that it had no objection to Local 125's petition for certification by card check.

On January 2, 2020, a Commission staff agent sent a proposed Stipulation of Appropriate Unit (Stipulation) to the parties describing the petitioned-for unit as follows:

Included: All regularly employed, non-supervisory clerical and blue collar employees employed by the Township of South Orange Village.

Excluded: Managerial executives, confidential employees, and supervisors within the meaning of the Act; craft employees, professional employees, police, casual employees, and all other employees employed by the Township of South Orange Village.

The staff agent asked the parties to provide any proposed change(s) to the Stipulation as soon as possible.

Also on January 2, 2020, Local 125 returned a partially-

executed Stipulation. Despite having no objection to certification by card check, the Village did not return a fully-executed Stipulation or provide any proposed change(s).

On January 13, 2020, the Commission staff agent advised the parties that any objection, including with respect to the unit description specified in the Stipulation, was due by/before the close of business on January 14, 2020; and that the Director of Representation (Director) would issue a decision regarding the petition thereafter.

Also on January 13, 2020, Local 125 advised that the Director should proceed to issue a decision; and the Village indicated that it would not execute the Stipulation and requested that the Director proceed to issue a decision.

ANALYSIS

On July 19, 2005, our Legislature amended the New Jersey Employer-Employee Relations Act (Act), N.J.S.A. 34:13A-5.3, authorizing the Commission to certify a majority representative when: (a) a majority of employees in an appropriate unit have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. N.J.A.C. 19:11-2.6(b). The Director shall determine whether a majority of employees in the unit have signed valid authorization cards and ". . . [a]bsent the submission of substantial, reliable evidence that raises a legitimate and substantial doubt, executed

authorization cards are presumed valid.” N.J.A.C. 19:11-2.6(b).

The Director is not obligated to provide copies of signed authorization cards. See Paterson Charter School for Science & Technology, D.R. No. 2015-9, 42 NJPER 74 (¶19 2015), adopted P.E.R.C. No. 2016-4, 42 NJPER 99, 101 (¶27 2015). In the absence of competent evidence implicating the validity of any authorization cards, I am compelled to rely on the cards for purposes of determining a petitioning organization’s majority representative status. See International Academy of Trenton Charter School, D.R. No. 2017-2, 43 NJPER 152 (¶46 2016), adopted P.E.R.C. No. 2017-24, 43 NJPER 175 (¶54 2016); New Hanover Tp., D.R. No. 2016-7, 42 NJPER 480 (¶133 2016).

Our review of Local 125’s authorization cards shows that, when cross-checked against the Village’s eligibility list, a majority of the petitioned-for employees have submitted cards in support of Local 125. The employees’ signatures on the cards meets the intent of the statute and the rules.

The proposed Stipulation corresponds with the Commission’s “preference for broad-based units and reluctance to form units along occupational or departmental lines [that] is well established.” Newark State Operated Sch. Dist., D.R. No. 2018-12, 44 NJPER 195 (¶57 2017), adopted P.E.R.C. No. 2018-39, 44 NJPER 383 (¶108 2018); see also Gloucester Cty., D.R. No. 2011-2, 36 NJPER 436 (¶170 2010), aff’d in pt. rev’d in pt. P.E.R.C. No. 2011-69, 37 NJPER 141 (¶42 2011); State v. Prof’l Ass’n of N.J.

Dep't of Educ., 64 N.J. 231 (1974).

My determination regarding the appropriate unit is based upon our investigation, the number of employees specified in the Village's eligibility list, and Local 125's representation that it has no objection to the unit description - which is identical to the unit description in the Certification of Representative issued on November 14, 2018 - specified in the proposed Stipulation.^{2/} See N.J.A.C. 19:11-2.2; N.J.S.A. 34:13A-6(d) (the agency "shall decide in each instance which unit of employees is appropriate for collective negotiation"). Moreover, the Workplace Democracy Enhancement Act (WDEA), P.L.2018, c.15, which was enacted May 18, 2018 and supplemented the Act at N.J.S.A. 34:13A-5.11 thru -5.15, specifies that ". . .[a]ll regular full-time and part-time employees of the public employer who perform negotiations unit work shall be included in the negotiations unit represented by the exclusive representative employee organization." N.J.S.A. 34:13A-5.15a.

Accordingly, Local 125 is entitled to a certification based upon a card check (N.J.S.A. 34:3A-5.3), regardless of the Village's failure to submit a signed Stipulation. See Lakewood Tp. Bd. of Ed., D.R. No. 2019-4, 45 NJPER 96 (¶25 2018); Passaic Cty. Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic Cty. Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

^{2/} The Village has not agreed, or objected, to the unit description.

I find that the following unit is appropriate:

Included: All regularly employed, non-supervisory clerical and blue collar employees employed by the Township of South Orange Village.

Excluded: Managerial executives, confidential employees, and supervisors within the meaning of the Act; craft employees, professional employees, police, casual employees, and all other employees employed by the Township of South Orange Village.

ORDER

I certify Teamsters Local Union No. 125, Affiliated with the International Brotherhood of Teamsters, based upon its authorization cards, as the exclusive representative of the negotiations unit described above.^{3/}

/s/ Jonathan Roth
Jonathan Roth
Director of Representation

DATED: January 14, 2020
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by January 24, 2020.

^{3/} The formal certification is attached.