

D.R. NO. 2018-4

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

In the Matter of

TOWNSHIP OF BRICK,

Public Employer,

-and-

Docket No. AC-2017-015

TRANSPORT WORKERS UNION
LOCAL 225 BRANCH 4,

Petitioner.

SYNOPSIS

The Director of Representation grants an amendment of certification requested by the Transport Workers Union Local 225 Branch 4 to reflect a change in its local charter number to 220 and the absence of a separate branch number. Transport Workers Union Local 225 Branch 4 complied with the necessary requirements and the Township of Brick did not oppose the amendment. Accordingly, Transport Workers Union of America AFL-CIO Local 220 is the exclusive representative of the unit.

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Appearances:

For the Respondent
Joanne Bergin, Business Administrator
Township of Brick

For the Petitioner
John Menshon, President
TWU Local 225 Branch 4

DECISION

On June 14, 2017, Transport Workers Union Local 225 Branch 4 ("Petitioner") filed an Amendment of Certification Petition with the Public Employment Relations Commission ("Commission").

N.J.A.C. 19:11-1.6. The Petitioner seeks to amend the Certification of Representative to reflect a change in its local charter number to 220 and the absence of a separate branch number.

I have conducted an investigation into the matters raised by this petition. N.J.A.C. 19:11-2.2. The public employer does not

oppose the petition. There are no substantial and material facts in dispute which would require a hearing. N.J.A.C. 19:11-2.6(d)(5).

I make the following:

FINDINGS OF FACT

On March 10, 1997, (Docket No. RO-97-72), the Commission certified the Petitioner as the exclusive representative of the following unit:

Included: All non-supervisory employees employed by the Township of Brick.

Excluded: All managerial executives, confidential employees, police, professional employees, craft employees, supervisory employees within the meaning of the Act, and fire employees employed by the Township of Brick.

The Petitioner has submitted exhibits and an affidavit from John Menshon, President of Petitioner, dated April 18, 2017, and sworn before a notary public on June 5, 2017, detailing the procedures followed concerning the change in local charter number:

1. Every individual section of Petitioner had previously unanimously voted in favor of the local charter number change between May 2016 and June 2016, and a vote by the general membership was subsequently for March 8, 2017.

2. The Petitioner's membership was given advance notice of the election for the local charter number change by a notice and agenda for the March 8, 2017 general membership meeting.

(Exhibit A, Menshon Affidavit; Exhibit B, Agenda)

3. John Menshon posted the notice at the local office at least one week before the general meeting and in compliance with the bylaws requiring such posting to be up forty-eight hours before, and he disseminated the posting to every section chair to be displayed, at a minimum, on each union bulletin board.

4. Item number 4 on the agenda is listed as "Report Charter Number Change-Final Vote/PERC." (Exhibit B, Agenda)

5. The election was held on March 8, 2017, within six months of the filing of the petition on June 14, 2017. (Exhibit A, Menshon Affidavit; Exhibit B, Agenda)

6. The election was conducted by secret ballot. (Exhibit A, Menshon Affidavit; Exhibit C, Ballots)

7. The ballots were appended to Menshon's affidavit sent to the Commission. (Exhibit A, Menshon Affidavit; Exhibit C, Ballots)

8. A sign-in sheet for the March 8, 2017 meeting, showing twenty-five signatures was appended to Menshon's affidavit sent to the Commission.

9. The membership of Petitioner voted in favor of the charter number change. (Exhibit A, Menshon Affidavit; Exhibit C,

Ballots). The tally of the ballots sent to the Commission reflects that there were twenty-five votes in favor of the change in charter number, and none opposed. (Exhibit C, Ballots)

10. Since the vote to amend the certification on March 8, 2017, the officers, composition, and unit structure have remained unchanged. (Exhibit A, Menshon Affidavit)

ANALYSIS

The Commission's rules establish procedures for amending certifications and our case law establishes the standards for granting such petitions. N.J.A.C. 19:11-1.6; Union Cty., D.R. No. 2005-7, 30 NJPER 496 (¶169 2004); Parsippany-Troy Hills Tp., D.R. No. 94-20, 20 NJPER 180 (¶25079 1994), req. for rev. denied, P.E.R.C. No. 94-119, 20 NJPER 279 (¶25141 1994); Cape May Assignment Judge, et al., P.E.R.C. No. 85-80, 11 NJPER 91 (¶16039 1985). Pursuant to N.J.A.C. 19:11-1.6(c), such a petition must be supported by an affidavit attesting that the membership of the certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

1. The membership was given advance and adequate notice of the election, as evidenced by an attached copy of a notice of election and a statement of the date of the notice and the manner in which it was provided to members;

2. The election was conducted by secret ballot, as evidenced by an attached copy of the ballot, and was held within six months of the filing of the petition;

3. A majority voted in favor of the change in name and affiliation, as evidenced by a document setting forth the results; and

4. The organization's officers and the unit structure remain unchanged.

Additionally, to record a change in name, an employee organization is required to show that its procedures afforded the membership with a degree of due process. Adequate due process will be found where the procedures provide the members with advance notice of the vote, an opportunity to discuss the change prior to the vote, and the chance to participate in the election. Middletown Tp., et al., P.E.R.C. No. 2000-47, 26 NJPER 59 (¶31020 1999), aff'd, No. A-2771-99T2 (App. Div. April 18, 2001); Parsippany-Troy Hills Tp., D.R. No. 94-20, 20 NJPER 180 (¶25079 1994), req. for rev. denied, P.E.R.C. No. 94-119, 20 NJPER 279 (¶25141 1994); N. Hudson Reg. Fire and Rescue, D.R. No. 2000-13, 26 NJPER 257 (¶31101 2000).

I am satisfied that the Petitioner has met all of the requirements for amendment of certification. Petitioner provided adequate advance notice of the general membership election, members participated in a secret ballot election on the proposed change in the local charter number, the majority voted in favor of the change as evidenced by the ballots which set forth the result, the petition was timely filed within six months of the election, and the organization's officers and unit structure have remained unchanged.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now Transport Workers Union of America AFL-CIO Local 220.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION

/s/Daisy Barreto
Daisy Barreto
Acting Director of
Representation

DATED: July 21, 2017
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 August 31, 2017.