

P.E.R.C. NO. 90-112

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNIVERSITY OF MEDICINE
AND DENTISTRY OF NEW JERSEY,

Public Employer,

-and-

Docket No. RO-90-98

LOCAL 6, INTERNATIONAL
FEDERATION OF HEALTH
PROFESSIONALS,

Petitioner,

-and-

LOCAL 97, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies a request for review filed by Local 6, International Federation of Health Professionals. The Commission determines that there are not compelling reasons to disturb the Director of Representation's decision dismissing a representation petition filed by Local 6 seeking to sever Newark employees of the University of Medicine and Dentistry of New Jersey from an employer-wide unit represented by Local 97, International Brotherhood of Teamsters.

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Appearances:

For the Public Employer, Robert J. Del Tufo, Attorney
General (Alice Guttler, Deputy Attorney General)

For the Petitioner, Szaferman, Lakind, Blumstein, Watter &
Blader, attorneys (Sidney H. Lehmann, of counsel)

For the Intervenor, Goldberger & Finn, attorneys (Howard
Goldberger, of counsel)

DECISION AND ORDER

On April 9, 1990, Local 6, International Federation of
Health Professionals (a.k.a. District 6, International Union of
Industrial, Service, Transport and Health Employees) requested
review of D.R. No. 90-22, 16 NJPER 219 (¶21093 1990). There, the
Director of Representation dismissed a representation petition filed
by Local 6 seeking to sever Newark employees of the University of
Medicine and Dentistry of New Jersey ("UMDNJ") from an employer-wide
unit represented by Local 97, International Brotherhood of Teamsters.

On April 17 and 20, 1990, Local 97 and UMDNJ filed replies opposing the request for review.

Requests for review will be granted only for compelling reasons. N.J.A.C. 19:11-8.2 sets forth the possible grounds:

1. That a substantial question of law is raised concerning the interpretation or administration of the act or these rules;
2. That the director of representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
3. That the conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
4. That there are compelling reasons for reconsideration of an important commission rule or policy.

None of these grounds is present here. Local 6 has not raised a substantial question of law warranting review. In Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61, NJPER Supp. 248 (¶61 1971), we expressed our reluctance to disturb an existing negotiations relationship absent a showing that the relationship is unstable or that the incumbent organization has not provided responsible representation. Id. at 249; see also Mercer Cty., P.E.R.C. No. 89-112, 15 NJPER 277 (¶20121 1989); Sussex-Wantage Bd. of Ed., P.E.R.C. No. 88-113, 14 NJPER 346 (¶19133 1988); Middletown Tp. Bd. of Ed., P.E.R.C. No. 88-44, 13 NJPER 841 (¶18322 1987); Passaic Cty. Tech. and Voc. H.S. Bd. of Ed., P.E.R.C. No. 87-73, 13 NJPER 63 (¶18026 1986).

Local 6 argues that because of the unique circumstances under which Local 97 succeeded the prior majority representative, we should grant a severance petition. It claims that denial of this petition will deny UMDNJ employees their right to select a majority representative of their own choosing.

N.J.S.A. 34:13A-6(d) requires that in the event of a dispute, we shall "decide in each instance which unit of employees is appropriate for collective negotiation." See also State v. Prof. Ass'n of N.J. Dept. of Ed., 64 N.J. 231, 257 (1974). In 1971, we certified a broad-based unit of all employees of the then College of Medicine and Dentistry of the State of New Jersey. Coll. of Medicine and Dentistry of New Jersey, E.D. No. 36, NJPER Supp. 508 (¶127 1971). Consistent with that determination, the Director refused to sever Newark employees from this historical broad-based unit. The Director has not denied employees the right to select a majority representative of their own choosing. He has simply complied with our statutory mandate to decide the appropriate unit. Furthermore, he has done so consistent with Jefferson and the long line of cases that have applied Jefferson. We are not persuaded that the way Local 97 became majority representative undercuts its existing relationship with UMDNJ -- a relationship that has spanned at least two contracts.

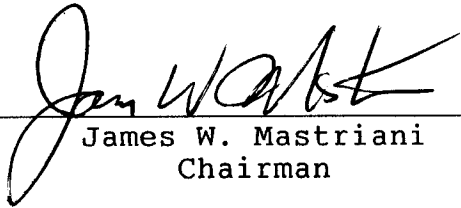
Nor has Local 6 shown that the Director's decision on a substantial factual issue is clearly erroneous. The relevant factual issue is whether Local 6 has presented evidence sufficient

to meet Jefferson's severance standards. The Director found that it had not and Local 6 has not shown that his determination was clearly erroneous.^{1/}

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Reid and Wenzler voted in favor of this decision. None opposed. Commissioner Johnson abstained from consideration. Commissioners Ruggiero and Smith were not present.

DATED: Trenton, New Jersey
June 25, 1990
ISSUED: June 26, 1990

^{1/} Local 6 also addresses how Local 97 became the majority representative, the Director's processing of an earlier petition, an alleged contract bar and recent negotiations between Local 97 and UMDNJ. It argues that the Director's failure to investigate these matters further and order a hearing resulted in prejudicial error. We express no further opinion on any of these issues because they are not relevant to whether, under present circumstances, we should sever Newark employees from an employer-wide unit.