

P.E.R.C. NO. 2008-35

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY LIBRARY COMMISSION,

Respondent,

-and-

Docket No. RO-2007-55

AFSCME, AFL-CIO, DISTRICT COUNCIL 71,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies the Camden County Library Commission's request for review of D.R. No. 2008-4. In that decision, the Director of Representation found insufficient facts to support the employer's assertion that a representation petition filed by AFSCME, AFL-CIO, District Council 71 should be dismissed because the petitioned-for employees are managerial executives or confidential employees. The Director certified Council 71 to represent a negotiations unit consisting of the Chief Librarian, Supervising Librarians, and the Supervising Librarian Technical Services. The Commission concludes that the Library Commission has not shown that there are any material facts in dispute to warrant a hearing or that the Director of Representation erred in any findings of fact. The Commission also finds that the Library Commission has not shown that a substantial question of law is raised concerning the interpretation or administration of the Act or rules.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Respondent, Deborah Silverman Katz, County  
Counsel (Donna Whiteside, Assistant County Counsel)

For the Petitioner, John Hemmy, Council 71 Associate  
Director

ORDER

The Camden County Library Commission has requested review of D.R. No. 2008-4, \_\_ NJPER \_\_ (¶\_\_ 2007). In that decision, the Director of Representation found insufficient facts to support the employer's assertion that a representation petition filed by AFSCME, AFL-CIO, District Council 71 should be dismissed because the petitioned-for employees are managerial executives or confidential employees. Based on the submission of authorization cards signed by a majority of the petitioned-for employees, the Director certified Council 71 to represent a negotiations unit consisting of the Chief Librarian, Supervising Librarians, and the Supervising Librarian Technical Services.

On November 26, 2007, our Chairman denied the Library Commission's request for a stay pending consideration of its request for review. We now deny the request for review.

N.J.A.C. 19:11-8.2(a) states that a request for review will be granted only for one or more of these compelling reasons:

1. A substantial question of law is raised concerning the interpretation or administration of the Act or these rules;
2. 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. The conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
4. An important Commission rule or policy should be reconsidered.

The Library Commission seeks a hearing to present evidence on how often the four employees may be called upon to serve as Library Director and what their duties would be in that capacity. It also seeks a hearing to present evidence on the types and amounts of allegedly confidential information available to the Information Technology Manager, one of the petitioned-for employees.<sup>1/</sup>

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<sup>1/</sup> The Information Technology or Technical Services Manager holds the civil service title of Supervising Librarian.

Our Director conducted an administrative investigation during which the Library Commission submitted answers to 23 questions as well as policy and budget documents. All answers and additional facts were supported by sworn statements and the Library Commission was invited to submit any other relevant additional information.

The Library Commission has not shown that there are any material facts in dispute that warrant a hearing or that the Director erred in any findings of fact. It asserts that a hearing is necessary so it can present confidential information for inspection by a Hearing Officer in camera, but it has not explained why it could not have submitted such information as part of the administrative investigation, in redacted form if necessary. In any event, mere access to confidential information does not render an employee confidential under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. New Jersey Turnpike Auth. v. AFSCME, Council 73, 150 N.J. 331, 358 (1997).

Nor has the Library Commission shown that a substantial question of law is raised concerning the interpretation or administration of the Act or our rules. The Director addressed the Library Commission's arguments about the need for these employees to be "in charge" when the Library Director is unavailable and about the access of the Information Technology

Manager to information in the library's computer network. There are no compelling reasons to review the Director's findings or conclusions. Accordingly, the Library Commission's request for review is denied.

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION

Chairman Henderson, Commissioners Branigan, Buchanan, Fuller and Watkins voted in favor of this decision. None opposed.

ISSUED: December 20, 2007

Trenton, New Jersey