

P.E.R.C. NO. 2013-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF FAIR LAWN,

Respondent,

-and-

Docket No. RO-2011-041

FAIR LAWN 911 OPERATORS
ASSOCIATION, IAFF,

Petitioner,

-and-

WHITE AND BLUE COLLAR EMPLOYEES'
ASSOCIATION OF FAIR LAWN,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission grants a request for review of D.R. No. 2013-4 filed by the Fair Lawn 911 Operators Association, IAFF. In that decision, the Director of Representation found that nine 911 operators currently included in a broad-based unit represented by White and Blue Collar Employees' Association of Fair Lawn should not be severed to be included in a unit represented by IAFF. IAFF argues that the Association is not the exclusive representative of the 911 operators, and that inclusion of the 911 operators in a broad-based unit is inappropriate because they were exempt from furlough days that were required of other employees. The Commission affirms the Director's decision that found evidence of a collective negotiations relationship without the necessary factors for severance from the broad-based unit.

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, Cleary, Giacobbe, Alfieri, Jacobs
LLC, attorneys (Adam S. Abramson-Schneider, of counsel)

For the Petitioner, Keith B. Kemery, District Field
Services Representative

For the Intervenor, Steve Wendowski

DECISION

On October 15, 2012, the Fair Lawn 911 Operators
Association, IAFF, (IAFF) appealed a decision of the Director of
Representation which found that nine 911 operators currently
included in a broad-based unit represented by White and Blue
Collar Employees' Association of Fair Lawn (Association) should
not be severed to be included in a unit represented by IAFF.

D.R. No. 2013-4, ___ NJPER ___ (¶ 2013). We grant the request for review and affirm the Director's decision.

We incorporate the extensive factual and procedural history cited by the Director. D.R. No. 2013-4, 1 - 5. In its request for review, IAFF asserts that the Director's decision raises a substantial question of law concerning the interpretation of the Act and that the decision is clearly erroneous on a substantial factual issue. N.J.A.C. 19:11-8.2a (1) and (2). We note that neither the Borough nor the Association responded to IAFF's request for review.

IAFF argues that representation in a broad-based unit is inappropriate because 911 operators were exempt from furlough days implemented in 2010 that were required of all other employees. IAFF also argues that the Association is not the exclusive representative because the recognition clause in the collective negotiations agreement between the Borough and the Association does not include the 911 operators; no facts indicate that the 911 operators belong to or pay dues to any union; no 911 operator has even been advised that Association representation was mandatory; no evidence shows that the 911 operators have even had the opportunity to choose a collective negotiations representative; and the employer dealt directly with 911 operators concerning Election Day pay.

The Director applied a well settled principle of law when found that we favor structuring negotiations units along broad-based lines and that we have been reluctant to find appropriate units structured along occupational lines, particularly when a unit is limited to one job title. State v. Professional Assn. of N.J. Dept. Of Ed., 64 N.J. 231 (1974). She also found that while the Association did not utilize our formal certification or recognition procedures to achieve status as the majority representative, the parties had a de facto collective negotiations relationship, evidenced by a mutually signed agreement covering full-time white collar employees and blue collar employees for a finite term, setting forth terms and conditions of employment. Collingswood Bd. of Ed., P.E.R.C. No. 86-50, 11 NJPER 694 (¶16240 1985). She further noted that while the recognition clause referenced white and blue collar employees, two articles of the Agreement set forth terms and conditions of employment specifically for police dispatchers. Finally, the Director cited the legal principle that severance is only appropriate where there is a record of unstable labor-management relations, or where the majority representative has not responsibly represented its unit employees. Jefferson Tp. Bd. Of Ed., P.E.R.C. No. 61, NJPER Supp 248 (¶61 1971). She found that none of the assertions made by the IAFF rose to that

level. Having addressed all of IAFF's arguments in her decision, we agree with the Director's determinations. Her decision is affirmed.

ORDER

The Fair Lawn 911 Operators Association, IAFF's request for review is dismissed and the Director of Representation's decision is affirmed.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson and Voos voted in favor of this decision. Commissioners Jones and Wall voted against this decision.

ISSUED: January 31, 2013

Trenton, New Jersey