

P.E.R.C. NO. 2014-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MANCHESTER TOWNSHIP,

Public Employer,

-and-

Docket No. CU-2013-032

OFFICE AND PROFESSIONAL EMPLOYEE
INTERNATIONAL UNION LOCAL 32,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies Manchester Township's request for review of the Director of Representation's dismissal of a clarification of unit petition. D.R. 2014-11, 40 NJPER 304 (§116 2013). The Township sought to exclude the title executive secretary to the chief of police from a broad-based white collar unit as confidential. The Commission denies review finding the Township has not met the standard for granting review and affirms the Director's findings that evidence was not presented to suggest the executive secretary to the chief of police performs duties that can be classified as confidential.

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 Public Employer, Secare, Ryan & Hensel,
attorneys, (Steven Secare, of counsel)

For the Respondent, Mets, Schiro and McGovern,
attorneys (Kevin P. McGovern, of counsel)

DECISION

Manchester Township has filed a request for review of the Director of Representation's determination that the title Executive Secretary to the Chief of Police, a position that has been included for decades in the collective negotiations unit represented by Office and Professional Employee International Union Local 32 (OPEIU) is not confidential within the meaning of N.J.S.A. 34:13A-3(g).^{1/} We conclude that the Township has not

^{1/} (g) "Confidential employees" of a public employer means employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

established any grounds for review under the standards set by N.J.A.C. 19:11-8.2(a).^{2/}

The results of an administrative investigation conducted by the Director are recited in her decision. D.R. No. 2014-11, 40 NJPER 304 (¶116 2013). The Director found that:

1. Pat Mongiardini the former Executive Secretary to the Chief of Police certified that, she "...did not have any access to confidential labor relations materials because all labor relations matters were handled by and through the Business Administrator's office; ...did not have advance knowledge of the Township's negotiations strategy, its proposals, or its tactics." and "...had no involvement in" grievances."^{3/}

2/ Review of a decision of the Director of Representation is warranted where:

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.

3/ Her certification also recites that during her tenure, the Chief did not engage in negotiations with the police union. That task was handled by the Business Administrator.

2. Mongiardini's successor, Amanda Jensen, took the job on July 29, 2013 and that the Township's contract with the representative of its police officers would not expire until December 31, 2014. Thus there have been no collective negotiations since Jensen was appointed to the position and, thus, there has been no opportunity to handle materials related to negotiations.
3. The Township failed to provide, as requested during the Director's investigation, specific examples of police union contract provision changes Jensen recommended to the Chief of Police, and when those recommendations were made.

Based on her findings and applying the pertinent case law regarding confidential status, referenced in her opinion, the Director dismissed the Township's petition, but noted that if the position holder began performing duties that were characteristic of those performed by confidential employees, it could seek her removal from the unit represented by the OPEIU.

In its request for review the Township asserts that it submitted sufficient information "to support a finding that the position of executive secretary to the chief of police is a confidential employee position."

The Township does not address why or how its application meets any, some, or all of the grounds set forth in N.J.A.C. 19:11-8.2(a). It does not contend that the Director's findings

are clearly erroneous, only that the information it supplied could have supported a finding of confidential status.

We conclude that the Township's application should not be granted.

ORDER

Manchester Township's Request for Review is denied.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Voos and Wall voted in favor of this decision. None opposed. Commissioner Jones was not present.

ISSUED: April 24, 2014

Trenton, New Jersey