

P.E.R.C. NO. 87-141

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
COUNTY OF PASSAIC,

Respondent,

-and-

Docket No. CO-86-316-201

LOCAL 11, I.B.T.,

Charging Party.

COUNTY OF PASSAIC,

Respondent,

-and-

Docket No. CO-86-317-202

LOCAL 711, I.F.L.U.,

Charging Party.

COUNTY OF PASSAIC,

Public Employer,

-and-

LOCAL 11, I.B.T.,

Employee Organization.

-and-

Docket No. RE-86-6

LOCAL 711, I.F.L.U.,

Employee Organization.

-and-

S.E.I.U. LOCAL 389.,

Intervenor-Employee Organization.

SYNOPSIS

The Public Employment Relations Commission denies the County of Passaic's motion for reconsideration of the Commission's

decision in Passaic County, P.E.R.C. No. 87-123, 13 NJPER _____
(¶ _____ 1987). The Commission holds that the County's allegation of
a change in circumstances requires the filing of another
representation petition.

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Appearances:

For the Respondent-Public Employer, Thomas F. Portelli, Esq.

For the Charging Parties-Employee Organizations,
Schneider, Cohen, Solomon, Leder & Montalbano, Esqs.
(Bruce Leder, of counsel)

For the Intervenor-Employee Organization, Max Wolf,
Secretary/Treasurer

DECISION ON MOTION FOR RECONSIDERATION

On April 16, 1986, the County of Passaic reorganized its public works section by abolishing the road and bridge departments and creating a department of operations. It abolished the bridge department titles represented by SEIU Local 389 and rehired most unit employees into vacant road department titles represented by Local 11, International Brotherhood of Teamsters ("Local 11") and Local 711, International Federation of Labor Unions ("Local 711"). It then refused to negotiate with Locals 11 and 711 "unless and until they have been certified as the bargaining representative(s) as a result of [an] election by employees of the newly-formed Department of Operations."

These facts led to two legal proceedings before the Commission. On May 12, 1986, Locals 11 and 711 filed unfair practice charges alleging that the County violated our Act, specifically subsections 5.4(a)(1) and (5), by refusing to negotiate in good faith. On June 19, 1986, the County filed a Petition for Certification of Public Employee Representative. It sought an election to determine which organization, if any, represents the employees in the new department of operations.

On March 23, 1987, we issued our decision. Passaic Cty., P.E.R.C. No. 87-123, 13 NJPER ____ (¶ ____ 1987). We first held that the County violated the Act when it refused to negotiate with Locals 11 and Local 711. We then dismissed the County's petition and held, based on the factual record of two days of hearing, that SEIU should continue to represent the former bridge department employees. We based this conclusion on several factors, including the history of separate units; the difference in duties and required skills between the former bridge department employees and road department employees; the absence of any material change in the duties of bridge department employees, and the absence of any interference with the County's ability to reorganize supervision, the main goal of the reorganization, caused by separate units.^{1/}

On April 9, 1987, the County filed a motion for reconsideration. It contends that this case should be remanded to permit it "to demonstrate that the duties performed by former bridge and road department employees were virtually...the same."

We deny the motion. The County does not dispute our finding that the duties of bridge department employees had not materially changed at the time of the hearing. We made our representation determination based on these facts. If the County believes circumstances have changed so as to warrant a reexamination

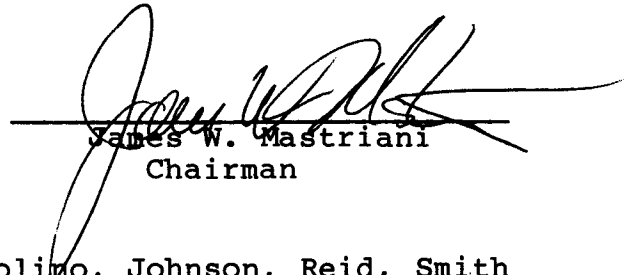
^{1/} We declined to consider the SEIU claim that the former bridge department employees should remain separate because they are a craft unit.

of the negotiations unit structure, it may file another representation petition but it must continue to recognize Local 389 as the majority representative of these employees. We express no opinion on whether a change of duties, by itself, would be sufficient to require the extinction of the existing unit.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Johnson, Reid, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey
May 20, 1987
ISSUED: May 20, 1987