

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
)
INTERNATIONAL ASSOCIATION OF)
FIRE FIGHTERS, LOCAL 2971) CASE 13209-E-97-2197
)
Involving certain employees of:) DECISION 6045 - PECB
)
SNOHOMISH COUNTY FIRE)
DISTRICT 1-11) DIRECTION OF ELECTION
)
)
)

James L. Hill, 7th District Vice-President, and Dan Olson, Local Representative, appeared on behalf of the petitioner.

Cabow Dow, Labor Consultant, and Ogden, Murphy and Wallace, Doug Albright, Attorney at Law, and Ed Widdis, Deputy Chief, appeared on behalf of the employer.

On June 4, 1997, International Association of Fire Fighters, Local 2971 (union), filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 319-25 WAC, seeking certification as exclusive bargaining representative of certain supervisors employed by Snohomish County Fire District 1-11 (employer). The parties did not reach an agreement on the description of an appropriate unit during an investigation conference conducted on August 13, 1997. The union suggested:

All uniformed supervisory employees of the Snohomish County Fire District 1-11, excluding non-supervisory, confidential employees, and all other employees.

The employer suggested:

All battalion chiefs and deputy chiefs of the Snohomish County Fire District 1-11, excluding captains, non-supervisory, and non-uniformed employees.

The employer's specific objection was that the term "supervisory employees" in the union's proposed description would include captains who are covered under another contract. The union argued that the captains were already included in a non-supervisory unit and that they should not be at issue in this case. The case has been referred back to the Executive Director, for a determination on the procedure to be followed, and the parties were given 10 days to submit statements in support of their positions.

The union submitted a statement of position on August 22, 1997, re-asserting that there should no reference to the "captain" rank in the description of the petitioned-for bargaining unit, because that rank has been represented for some time in the rank-and-file bargaining unit and is not within the unit sought by the union in this case. The employer did not submit a statement of position.

DISCUSSION

The description of an appropriate bargaining unit is a necessary ingredient in any final order certifying an exclusive bargaining representative. Such unit descriptions often outlast the employer officials, union officials and employees who participate in the creation of a bargaining relationship, and must serve as a guide to resolve unit work questions for the entire duration of the bargaining relationship. There is thus a concern for clarity and consistency on the part of the Commission in such matters.

Use of Specific Job Titles in Unit Descriptions

The employer has proposed using its current job titles in the unit description. The Commission has traditionally used generic terms to describe bargaining units, and recently reiterated that policy in City of Milton, Decision 5808-B (PECB, 1995), as follows:

The use of a generic phrase to describe a supervisory bargaining unit does create the possibility that other positions could eventually qualify for inclusion. The Public Employment Relations Commission retains the authority conferred by RCW 41.56.060 to determine whether positions share a community of interest with others in a bargaining unit. We see no problem with the potential inclusion of other supervisors who share a community of interest with "department directors". We do see a potential for mischief and confusion under the collective bargaining law were we to deviate from our preference for generic terms in unit descriptions.

The reference to adding positions was further explained in City of Tacoma, Decision 5634 (PECB, 1996), terms of:

The Commission prefers the use of generic terms, and generally avoids the use of specific civil service or job titles, in unit descriptions. That leaves employers free to change job titles and permits unions to follow their unit work claims, without need for unnecessary unit clarification proceedings.

Parties may obtain modifications of bargaining unit descriptions, adding positions to or deleting positions from a bargaining unit, through unit clarification proceedings conducted by the Commission under Chapter 391-35 WAC. The Commission then applies the community of interest criteria set forth in RCW 41.56.060:

The Commission, after hearing upon reasonable notice, shall decide each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the Commission shall consider the **duties, skills, and working conditions** of the public employees; **the history of collective bargaining** by the public employees and their bargaining representatives; the extent of organization among the public **employees**; **and the desire** of the public employees.

[Emphasis by **bold** supplied.]

The employer's focus on current job titles thus fails to present an issue on which a hearing is warranted in this case.

It has long been established that "supervisors" will be excluded from the bargaining units which contain their rank-and-file subordinates. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981). If the employees holding the rank of "captain" in this employer's workforce actually exercise sufficient authority to warrant their exclusion from the rank-and-file unit, such an exclusion should have been sought by the employer long ago. The employer does not claim any change of circumstances involving the employees in the "captain" rank. The Richland decision also stands for the proposition that the bargaining unit status of positions or classifications will not be disturbed, absent claim (eventually supported by evidence) of changed circumstances. Thus, the employer's arguments about the "captain" rank also fail to present an issue on which a hearing is warranted in this case.

In City of Redmond, Decision 1367-A (PECB, 1982), the Commission provided direction to get on with the early determination of

questions concerning representation whenever possible, and to defer hearings and determinations on issues which do not necessarily affect the outcome of a question concerning representation. The same principle is even more apt in this case, where all of the legal arguments advanced by the employer are controlled by established precedent. The Executive Director thus deems it appropriate to proceed with conducting the election, without remand of these arguments for a hearing.

DIRECTION OF ELECTION


A representation election shall be conducted by secret ballot, under the direction of the Public Employment Relations Commission, among:

All full-time and regular part-time uniformed supervisors employed by Snohomish County Fire District 1-11, excluding elected officials, the executive head of the bargaining unit, confidential employees, non-supervisory uniformed personnel, and all other employees.

for the purposes of determining whether a majority of the employees in that unit desire to be represented for the purposes of collective bargaining by the International Association of Fire Fighters, Local 2971, or by no representative.

Issued at Olympia, Washington, on 19th day of September, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.