

Clark County, Decision 6151 AND 6152 (PECB, 1997)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
INFORMATION TECHNOLOGY GUILD)	CASE 13403-E-97-2234
Involving certain employees of:)	DECISION 6151 - PECB
CLARK COUNTY (VANCOUVER / CLARK)	DIRECTION OF ELECTION
COUNTY JOINT OFFICE OF INFORMATION)	
TECHNOLOGY))	
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In the matter of the petition of:)	
INFORMATION TECHNOLOGY GUILD)	CASE 13431-E-97-2237
Involving certain employees of:)	DECISION 6152 - PECB
CLARK COUNTY)	ORDER OF DISMISSAL
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Hoag, Garrettson, Goldberg and Fenrich, by Mark J. Makler, Attorney at Law, appeared on behalf of the petitioner.

Steve Foster, Human Resources Director, and Carol Chislett, Representative, appeared on behalf of the employer.

Michael L. Richards, Labor Relations Specialist, appeared on behalf of the intervenor, Office and Professional Employees International Union, Local 11.

A petition for investigation of a question concerning representation filed with the Commission on September 15, 1997, sought a change of representation for all employees of the Vancouver / Clark County Joint Office of Information Technology, except some LAN technicians. (Case 13403-E-97-2234.)

A petition for investigation of a question concerning representation filed with the Commission on September 26, 1997, sought a

bargaining unit limited to certain LAN technicians who had been offered and had accepted positions with Clark County after their classifications were eliminated from the Vancouver / Clark County Joint Office of Information Technology on May 1, 1997. (Case 13431-E-97-2231.)

During the initial processing of these cases, a representative of Clark County disclosed the existence of a "tentative" plan to dissolve the Vancouver / Clark County Joint Office of Information Technology on or about January 1, 1998. An investigation conference was held on October 23, 1997, at which time the parties agreed to include the LAN technicians in Case 13403-E-97-2234, and stipulated the propriety of a bargaining unit described as follows:

All full-time and regular part-time employees of the Clark County Department of Information Technology and the Joint Office of Information Technology, excluding supervisors and confidential employees.

The parties agreed to a mail ballot election, with the tally of ballots to be conducted on November 12, 1997. An investigation statement was issued on October 23, 1997 reflecting those stipulations. Mail ballots were sent to all eligible voters on October 18, 1997.

Objections to the Investigation Statement

On November 3, 1997, the incumbent exclusive bargaining representative of the employees petitioned-for, OPEIU Local 11, filed objections to the investigation statement, seeking to withdraw from the stipulations entered into on October 23, 1997. By a letter issued on November 5, 1997, the Commission staff notified all parties that objections had been filed, that the election arrange-

election arrangements were void, that a new investigation conference would be conducted on November 14, 1997, and that the ballots would be impounded.

On November 6, 1997, the Information Technology Guild filed a motion to strike the objections filed by OPEIU, Local 11, based on a claim that Local 11 did not serve its objections on the other parties. By a letter issued on November 7, 1997, the Commission staff gave Local 11 ten days to show proof of service.

To date, Local 11 has not responded with proof of service, as required by WAC 391-08-120(4), showing that it effected service of its objections on the other parties, as required by WAC 391-25-220(2)(b) and WAC 391-08-120(3). Accordingly, the objections filed by Local 11 must be denied.

Clarification of Who Is the Employer

Review of the case file in connection with the defective objection nevertheless disclosed the existence of a fundamental question concerning the identification of the employer. The function of the Commission is not limited to assessing majority status, but also includes establishing a bargaining relationship between a particular union and a particular employer. By letter issued on November 26, 1997, the Executive Director pointed out that the reorganization plan had only been described by the Clark County official as "tentative", that a question remained as to who the employer would be effective January 1, 1998, and that the identification of the employer needed to be resolved before proceeding with the processing of the above-captioned cases. The cases were thus held in abeyance for 10 days, to permit Clark County and/or the City of Vancouver to file a statement concerning the current and prospec-

tive employment status of employees historically employed by the Vancouver / Clark County Joint Office of Information Technology.

On December 8, 1997, Clark County supplied information that the Clark County Board of Commissioners had, on December 5, 1997, approved the full assimilation of the Joint Office of Information Technology as the Clark County Department of Information Technology. The recent action resolves the question as to the identification of the employer, and the processing of the case can now proceed.

DIRECTION OF ELECTION - Case 13403-E-97-2234

The representation election by secret ballot previously initiated under the direction of the Public Employment Relations Commission pursuant to the investigation statement in Case 13403-E-97-2234 shall be concluded by tally of the ballots among all full-time and regular part-time employees of the Clark County Department of Information Technology and the Joint Office of Information Technology, excluding supervisors and confidential employees, for the purpose of determining whether a majority of the employees in the unit desire to be represented by the Information Technology Guild, Office and Professional Employees International Union, Local 11, or by no representative. The tally of ballots shall be conducted on December 15, 1997 at 3:00 p.m. in the Commission office in Olympia. Each party is entitled to have an observer at the tally.

ORDER OF DISMISSAL - Case 13431-E-97-2237

The petition for investigation of a question concerning representation filed in Case 13431-E-97-2237 shall be, and hereby is, DISMISSED, on the basis that all of the petitioned-for employees

have been included in the bargaining unit stipulated appropriate in, and are eligible voters in the election by secret ballot being conducted by the Public Employment Relations Commission pursuant to the investigation statement in Case 13403-E-97-2234.

Issued at Olympia, Washington, on the 9th day of December, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", is written over the printed name below.

MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.

Paragraph 2 of this will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-25-390(2).