

BEFORE THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION
OF THE STATE OF WASHINGTON

In the matter of:)
AUTOMOTIVE AND SPECIAL SERVICES)
UNION LOCAL 461 - TEAMSTERS,)
Petitioner)
and)
TACOMA-PIERCE COUNTY LAW)
ENFORCEMENT SUPPORT AGENCY,)
Employer)

36-
Case No. 0-2085
FINDINGS OF FACT AND
CONCLUSIONS OF LAW
DECISION NO. 84-PECB

THIS MATTER having come on for hearing before the undersigned, on April 14, 1976, on the petition of Teamsters Union Local No. 461, seeking certification as exclusive bargaining representative of all Shift Supervisors employed by Tacoma-Pierce County Law Enforcement Support Agency (LESA), Teamsters Union Local 461 being represented by Mr. Steven B. Frank and LESA being represented by Mr. Hugh W. Judd, Labor Relations Director, City of Tacoma, and member of Negotiating Team of LESA, witnesses having been sworn and testified, exhibits having been admitted, testimony adduced, briefs having been submitted and considered, and the hearing examiner having heard the argument of the respective representatives of the parties, and being fully advised in the premises now makes the following:

FINDINGS OF FACT

I

AUTOMOTIVE AND SPECIAL SERVICES UNION LOCAL NO. 461 - TEAMSTERS did petition on November 26, 1975 for Shift Supervisors of the Tacoma-Pierce County Law Enforcement Support Agency pursuant to Chapter 41.56 of the Revised Code of Washington.

II

THE TACOMA-PIERCE COUNTY LAW ENFORCEMENT SUPPORT AGENCY (LESA) is a "public employer" within the meaning of RCW 41.56.020 and RCW 41.56.030 (1).

III

TEAMSTERS UNION LOCAL NO. 461 is a "labor organization" within the meaning of RCW 41.56.010, and is a "bargaining representative" within the meaning of RCW 41.56.030 (3).

1 IV

2 THE LESA is headed by a Director who is appointed by the Executive Board.
3 There are five (5) Shift Supervisors in the petitioned-for unit who report directly
4 to the Director. The Shift Supervisors direct the activities of thirty-six (36)
5 staff employees.

6 V

7 Teamsters Union Local No. 461 presently represents the thirty-six (36) staff
8 employees for purposes of collective bargaining with LESA.

9 VI

10 Four (4) of the five (5) Shift Supervisors have signed Bargaining Authoriza-
11 tion Cards in favor of Teamsters Union Local No. 461.

12 VII

13 The Shift Supervisors independently schedule the work and assign employees
14 to their shifts.

15 VIII

16 The Shift Supervisors direct employees in their duties; keep the time records;
17 grant sick leave; and call in off-duty employees for necessary overtime work. They
18 evaluate employees on a regular basis.

19 IX

20 The Shift Supervisors can take disciplinary action and they hear employee
21 grievances which they have the authority to settle.

22 X

23 The Shift Supervisors have the authority, and do exercise same, to effec-
24 tively recommend suspension and layoff of employees. They can and do effectively
25 recommend termination of probationary employees.

26 XI

27 The Director of LESA meets regularly with the Supervisors to discuss policy
28 matters and negotiation issues of a confidential nature concerning employees under
29 their supervision.

30 XII

31 Each Shift Supervisor acts as Assistant Director on a monthly, rotating
32

1 basis and while in that position acts as the Director in his absence.

2 XIII

3 THE TACOMA-PIERCE County Law Enforcement Support Agency opposes the peti-
4 tion on the basis that the petitioned-for employees are not "public employees" as
5 defined in the statute because they fall within the specific exception of
6 RCW 41.56.030 (2) (c) in that they act as an "administrative assistant" and have a
7 "confidential relationship" to the executive head of the agency.

8 XIV

9 TEAMSTERS UNION LOCAL NO. 461 urges that the proposed bargaining unit is
10 appropriate because "supervisors" are not specifically excluded by the statute and
11 states that previous rulings by the Department of Labor and Industries to the con-
12 trary were wholly unauthorized and should not be followed.

13 From the foregoing Findings of Fact, the Public Employment Relations Com-
14 mission makes the following

15 CONCLUSIONS OF LAW

16 I

17 The Public Employment Relations Commission has jurisdiction over this matter
18 by virtue of RCW 41.56.

19 II

20 Precedents set by the State of Washington Department of Labor and Industries
21 have excluded "managerial" type supervisors from the provisions of the Act in Cases
22 SK-1216, SK-1395, 0-1510, and 0-1573.

23 III

24 The petitioned-for bargaining unit of Shift Supervisors consists of "mana-
25 gerial" type supervisors who are not Public Employees as defined in RCW-41.56.030
26 (2) (c) and are thus excluded from the provisions of said Act as a matter of law.

27 IV

28 The Petition by Automotive and Special Services Union Local No. 461 - Team-
29 sters shall therefore be dismissed.

30
31 Dated this 16 day of July, 1976.

32
33 Willard G. Olson

Willard G. Olson
Associate Chief Labor Mediator
Public Employment Relations Commission

STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of)
AUTOMOTIVE AND SPECIAL SERVICES)
UNION LOCAL 461 - TEAMSTERS,)
Petitioner)
and)
TACOMA-PIERCE COUNTY LAW)
ENFORCEMENT SUPPORT AGENCY,)
Employer)

Case No. 0-2085

DECISION

and

ORDER

THIS MATTER having come on regularly for hearing on the 14th of April, 1976, before WILLARD G. OLSON, Hearing Examiner, the petitioner being represented by Mr. Steven B. Frank; the Tacoma-Pierce County Law Enforcement Support Agency being represented by Mr. Hugh W. Judd; and the Hearing Examiner having heard the sworn testimony and considered all the evidence presented by the parties and having heretofore made and entered his FINDINGS OF FACT AND CONCLUSIONS OF LAW, and being fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

The certain petition by AUTOMOTIVE AND SPECIAL SERVICES UNION LOCAL NO. 461 - TEAMSTERS for certification as exclusive bargaining representative of all Shift Supervisors employed by the Tacoma-Pierce County Law Enforcement Support Agency is hereby dismissed.

DATED this 16 day of July, 1976.

Willard G. Olson
WILLARD G. OLSON
ASSOCIATE CHIEF LABOR MEDIATOR

STEVEN B. FRANK
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RECEIVED
JUN 11 1976
PUBLIC EMPLOYMENT
RELATIONS COMMISSION

June 9, 1976

Willard Olson
Associate Chief Mediator
Public Employment Relations Commission
300 W. Harrison
Seattle, Washington 98119

Re: Automotive and Special Services Local No. 461 -
Teamsters and Tacoma-Pierce County Law Enforcement
Support Agency, Case No. 0-2085

Dear Mr. Olson:

Teamsters Local 461, my client in the above-referenced matter, is quite anxious to know when your decision will issue in this case. As you are aware, the hearing was held before you on April 13, 1976, and my brief was filed on April 26. By our computations this matter has been before you for a decision one and one-half months.

Would you please advise me when a decision may be expected.

Yours truly,

Steven B. Frank
Steven B. Frank

SBF:edm

cc: Lew Hatfield
Marvin Schurke