

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
 :
 : Case No. PF-R-99-130-E
 :
 DALTON BOROUGH :

FINAL ORDER

On April 17, 2000, the Dalton Police Association (Association) filed timely exceptions to a Nisi Order of Certification issued April 3, 2000, by the Pennsylvania Labor Relations Board (Board) certifying the Association as the exclusive bargaining representative of all full-time and regular part-time police officers of Dalton Borough (Employer), excluding the chief of police and any other managerial employe pursuant to the provisions of the Pennsylvania Labor Relations Act (PLRA) and Act 111 of 1968. In the Nisi Order of Certification, the Board incorporated the findings of Fact and Conclusions of Law made by a duly designated hearing examiner of the Board in an Order Directing Submission of Eligibility List issued on February 18, 2000. In its exceptions, the Association alleges that the Board erred by (1) making various findings of fact; and (2) concluding that the chief of police is a management level position excluded from the bargaining unit. On May 10, 2000, the Employer filed its response to the Association's exceptions.

AMENDED FINDINGS OF FACT

14. That prior to September 1999, the chief of police was responsible for verifying the payroll records of all police officers to the Borough secretary/treasurer prior to the payroll checks being issued. Sue Stacknick, the Borough secretary/treasurer is the only paid administrative employe of the Borough. Since September 1999, the secretary/treasurer gathers the pay information directly from the time cards. The chief would inform the Borough secretary/treasurer in the event an employe required a different pay scale as a result of time spent either attending court or on duty as part of a drug task force. (N.T. 11-14)

15. The chief is responsible for recommending discipline for officers. For example, the chief arranged a meeting with an officer who failed to work a scheduled shift for the Borough. At that meeting, the chief gave the officer the chance to resign as opposed to being disciplined. (N.T. 140-141)

DISCUSSION

In its exceptions, the Association contends that the hearing examiner erred in making various findings of fact. The Board has reviewed the findings of fact made by the hearing examiner and find that, in the main, they are supported by substantial and legally credible evidence on the record and will be affirmed. Findings of Fact 14 and 15, regarding the chief's involvement in verifying the police payroll of the Borough and his involvement in the discipline of one particular officer, have been amended above to more accurately reflect the evidence of record. However, these

amendments do not change the determination that the chief of police is a managerial employe within the meaning of the PLRA and Act 111 because the chief meets the criteria set forth in Fraternal Order of Police Lodge No. 20 v. Pennsylvania Labor Relations Board, 522 A.2d 697, (Pa. Cmwlth. 1987), affirmed 522 Pa. 149, 560 A.2d 145 (1989), (Star Lodge). The party seeking to exclude a position as managerial from an Act 111 bargaining unit, in this case the Borough, must prove that the position meets the criteria set forth as follows:

Policy Formulation - authority to initiate departmental policies, including the power to issue general directives and regulations;

Policy Implementation - authority to develop and change programs of the department;

Overall Personnel Administration Responsibility - as evidenced by effective involvement in hiring, serious disciplinary actions and dismissals;

Budget Making - demonstrated effectiveness in the preparation of proposed budgets, as distinguished from merely making suggestions with respect to particular items;

Purchasing Role - effective role in the purchasing process, as distinguished from merely making suggestions;

Independence in Public Relations - as evidenced by authority to commit departmental resources in dealing with public groups.

522 A.2d at 705.

The hearing examiner concluded that the chief exercised effective managerial authority in the areas of policy formulation, overall personnel administration responsibility, and purchasing role. We agree with the hearing examiner that the record reveals that the chief has the authority to initiate departmental policies and initiate changes in those policies when necessary, has an effective involvement in hiring and serious disciplinary actions, and has an effective role in the purchasing process. Accordingly, the hearing examiner correctly concluded that the chief of police was a management level employe within the meaning of the Star Lodge test. Accordingly, the exceptions filed by the Association shall be dismissed and the Nisi Order of Certification will be affirmed.

ORDER

In view of the foregoing and in order to effectuate the policies of the Pennsylvania Labor Relations Act and Act 111 of 1968, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the above case number be and the same are hereby affirmed in part and dismissed in part and the Nisi Order of Certification, as modified herein, be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania, pursuant to conference call meeting of the Pennsylvania Labor Relations Board, John Markle, Jr., Chairman, and L. Dennis Martire, Member, this sixteenth day of May, 2000. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within order.