

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: Case No. PERA-U-04-657-W
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:
ALLEGHENY COUNTY :

FINAL ORDER

The Allegheny County Court of Common Pleas Minute Clerks (Minute Clerks) are presently represented for purposes of collective bargaining by the General Teamsters, Chauffeurs and Helpers Local Union 249, a/w The International Brotherhood of Teamsters (Local 249) in a larger union of non-professional court appointed employees. A Petition for Unit Clarification was filed by and on behalf of the Minute Clerks seeking their exclusion from the broader unit which includes court reporters, tipstaves, clerk stenos, cashiers, data coordinators, clerks, clerk typists, domestic relations investigators, account clerks, arbitration clerks and clerk typists.

In their Petition for Unit Clarification (Petition) under the Public Employee Relations Act (PERA), the Minute Clerks stated that "this is a severance of employee group petition; the existing union has not represented minute clerks as a professional group entitled to greater compensation; the minute clerks represent a community of interest who, by virtue of knowledge, training, skills, discretion, and judgment are "professional employees." On March 10, 2006, the Secretary dismissed the Petition because individual employees do not have standing to file unit clarification petitions. Specifically, the Secretary cited to Section 95.23 of the Pennsylvania Labor Relations Board's rules, which provides that a petition for clarification of an existing bargaining unit may be filed by a collective bargaining representative or the public employer. The Secretary also noted that, even if the Minute Clerks did have standing, the supporting documentation did not support the notion that the Minute Clerks are professional employees as that term is defined in the PERA.¹ Further, the Secretary noted that a unit limited to Minute Clerks would result in inappropriate over-fragmentation of bargaining units.

In their Exceptions, the Minute Clerks argue that: 1) the Secretary erred in finding that the minute clerks have no standing, 2) the Secretary erred in determining, without a hearing, that the minute clerks are not professional employees, 3) the Secretary erred in determining, without a hearing, that a separate bargaining unit comprised of the Minute Clerks would unduly fragment the existing unit.

In their brief, the Minute Clerks argue that Commonwealth of Pennsylvania, 26 PPER ¶ 26,134 (Final Order, 1995), which the Secretary cited in support of her decision to dismiss the Petition, is not applicable to the matter currently before the Board. The law is well-settled that individuals or groups of employees do not have standing to participate in representation proceedings. See Official Court Reporters of Court of Common Pleas v. Pennsylvania Labor Relations Board, 502 Pa. 518, 467 A.2d 311 (1983). In Commonwealth of Pennsylvania, the union filed petitions for unit clarification requesting

¹Section 301(7) of the PERA provides that:

(7) "Professional employe" means any employe whose work: (i) is predominantly intellectual and varied in character; (ii) requires consistent exercise of discretion and judgment; (iii) requires knowledge of an advanced nature in the field of science or learning customarily acquired by specialized study in an institution of higher learning or its equivalent; and (iv) is of such character that the output or result accomplished cannot be standardized in relation to a given period of time.

that two Nisi Orders of Certification be amended to include several positions. The Board issued Nisi Orders of Unit Clarification granting these requests. Thereafter, certain individual employes who were included by the Orders of Unit Clarification filed Exceptions. The Board dismissed the Exceptions because the individual employes did not have standing to file exceptions to an order granting a request for Unit Clarification. The Board, citing the Supreme Court's decision in Court Reporters for the general proposition that individual employes do not have standing in representation proceedings, stated that: "This result is consistent with Section 95.23 of the Board's rules and regulations, 34 Pa. Code 95.23, which permits only the employer or the exclusive bargaining representative to file a petition for unit clarification. The Board has consistently rejected attempts by individual employes to litigate their specific unit placement. See Lackawanna County Housing Authority, 20 PPER 20067 (Final Order, 1989); East Allegheny School District, 10 PPER 10023 (Final Order, 1979); County of Berks, 11 PPER 11297 (Final Order, 1980); Washington County, 11 PPER 11054 (Order and Notice of Election, 1980)."

Similarly, in this case, the Minute Clerks do not have standing to file a Unit Clarification Petition seeking to remove themselves from the current bargaining unit. Thus, Commonwealth of Pennsylvania, which the Secretary cited for the general proposition that individual employes do not have standing in representation proceedings, is applicable to this case. The Secretary's position in this regard was consistent with Supreme Court precedent, Board precedent and with the Board's Rules and Regulations. Furthermore, the Minute Clerks have cited no authority contrary to this long-standing precedent. Therefore, the Minute Clerk's Exceptions are dismissed.²

After a thorough review of the exceptions and all matters of record, it is clear that the Minute Clerks do not have standing to file a Petition for Unit Clarification. Accordingly, the Board will dismiss the exceptions and sustain the Secretary's decision dismissing the Petition for Unit Clarification.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions are dismissed and the Secretary's decision not to direct a hearing for the Petition For Unit Clarification 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, L. Dennis Martire, Chairman, Anne E. Covey, Member and James M. Darby, Member, this sixteenth day of May, 2006. 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.

² Because it is clear that the Minute Clerks do not have standing, the questions of whether the Minute Clerks are professional employes and whether granting the Unit Clarification Petition would unduly fragment the existing unit are moot and need not be addressed.