

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PF-U-06-29-E
: :
BRECKNOCK TOWNSHIP :

PROPOSED ORDER OF UNIT CLARIFICATION

On February 14, 2006, Brecknock Township (Township) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board), seeking clarification of a unit of police officers of the Township represented by the Employee Unit of the Brecknock Township Police Department (Union) to exclude the position of chief of police.

On March 22, 2006, the Secretary of the Board issued an Order and Notice of Hearing in which April 24, 2006, was assigned as the time and place of a telephone pre-hearing conference for the purpose of resolving the matters in dispute without a hearing and May 24, 2006, in Harrisburg was assigned as the time and place of hearing, if necessary. Following the pre-hearing conference, the parties requested a continuance of the hearing to allow the opportunity to prepare and submit a stipulation of facts in lieu of a hearing. On May 26, 2006, the parties submitted the stipulation of facts to Thomas P. Leonard, the hearing examiner assigned to the case. On September 18, 2006, the parties submitted a revised stipulation of facts in response to an inquiry from the examiner.

The examiner, on the basis of the stipulation of fact and from all other matters and documents of record makes the following:

FINDINGS OF FACT

1. That Brecknock Township is a political subdivision of the Commonwealth of Pennsylvania and an employer within the meaning of Section 3(c) of the Pennsylvania Labor Relations Act.
2. That the Employee Bargaining Unit of the Brecknock Township Police Department is a labor organization with in the meaning of Section 3(f) of the Pennsylvania Labor Relations Act.
3. That the unit is consists of six (6) full-time police officers, which includes the police chief a sergeant, a corporal and three (3) patrol officers. (Stipulation Number 2)
4. That the Union is recognized by the Township as the exclusive bargaining representative of a unit of police officers of Brecknock Township. (Stipulation Number 3)
5. That the Chief was appointed to his position approximately eight (8) years ago. (Stipulation Number 6)
6. That the Chief's primary functions are increasingly managerial, particularly in the last three (3) years, although he covers occasional patrol shifts or provides backup as needed or when no other police officers are available, such as when the police department has less than a full complement of police officers due to vacations or medical leave. (Stipulation Number 7).
7. That the Chief currently works day shift, Monday through Friday, including occasional weekends. (Stipulation Number 9)

8. That he spends the majority of each day handling administrative matters, rather than patrol matters. (Stipulation of Fact Number 10)

9. That the Chief has created and developed such policies as a standard operating procedure for the police department, all general work orders, regulations for the use of the Township's firing range, including use by third party agencies, and rules for possession and maintenance of firearms by the police officers. (Stipulation Number 14)

10. That the Chief is involved in personnel administration with respect to hiring, supervising and terminating police officers. (Stipulation Number 16)

11. That the Board of Supervisors accepts the Chief's recommendations with respect to hiring candidates for full-time positions. (Stipulation Number 18)

12. That the Chief controls the department's yearly operating budget, and is authorized to make purchases at his discretion and without prior Township approval, assuming the budget or cost is directly related to another program from the municipality. (Stipulation Number 24)

13. That the Chief is permitted to purchase police cars, equipment for the police cars, ammunition, weapons, computer equipment, and other equipment needs of the department. (Stipulation Number 25)

DISCUSSION

The Township has filed a petition for unit clarification to exclude the position of chief of police from the police collective bargaining unit on the grounds that the chief is a managerial employee. In response, the Township and the Union filed stipulation of facts concerning the duties and responsibilities of the chief.

The present case must be tested against FOP, Star Lodge No. 20 v. Commonwealth, PLRB, 522 A.2d 697 (Pa. Cmwlth. 1987), aff'd, 522 Pa. 149, 560 A.2d 145 (1989) (Star Lodge II), when the Commonwealth Court found the following criteria constituted evidence of managerial status under Act 111:

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 704.

The stipulation of facts submitted by the parties paints a convincing picture of the chief as a managerial employee under the Star Lodge test. The stipulated facts demonstrate, inter alia, that the chief has the authority, and has actually exercised the authority, to perform several of the Star Lodge managerial functions. For example, the chief exercises managerial authority in policy formulation and implementation. He has written the department's standard operating procedures. He exercises authority in overall personnel

administration. The Township approves his recommendations for the hiring of new officers. Finally, he exercises authority in purchasing as demonstrated by his ability to purchase equipment and police vehicles.

Accordingly, based on the stipulated facts, the position of chief of police will be excluded from the police bargaining unit as a managerial employe.

CONCLUSIONS

The examiner, therefore, after due consideration of the foregoing and the record as a whole concludes and finds:

1. That Brecknock Township is an employer within the meaning of the PLRA and Act 111.
2. That the Employe Bargaining Unit of the Brecknock Township Police Department is a labor organization within the meaning of the PLRA and Act 111.
3. That the Board has jurisdiction over the parties hereto.
4. That the chief of police is a managerial employe.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the examiner

HEREBY ORDERS AND DIRECTS

that the police bargaining unit recognized by the Township is hereby amended to exclude the chief as a managerial employe.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to Pa. 34 Code § 95.98 within twenty (20) days of the date hereof, this decision and order shall become absolute and final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania this thirteenth day of October, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

THOMAS P. LEONARD, Hearing Examiner