

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
 :  
 : Case No. PF-U-05-100-E  
 :  
 :  
MUHLENBERG TOWNSHIP :

**PROPOSED ORDER OF UNIT CLARIFICATION**

On July 12, 2005, the Muhlenberg Township Police Labor Organization (Union) filed a Petition for Unit Clarification with the Pennsylvania Labor Relations Board (Board), seeking clarification of a unit of police officers of Muhlenberg Township (Township) to exclude the position of lieutenant.

On October 27, 2005, the Secretary of the Board issued an Order and Notice of Hearing in which November 9, 2005 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 February 8, 2006, in Reading was assigned as the time and place of hearing, if necessary, before Thomas P. Leonard, Esquire, a hearing examiner of the Board. Following the pre-hearing conference, the parties requested a continuance of the hearing to allow the opportunity to prepare and submit stipulations of facts. On March 15, 2006, the parties submitted stipulations of fact in lieu of a hearing.

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

FINDINGS OF FACT

1. That Muhlenberg 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 with its address located at 5401 Leesport Avenue, Temple, Pennsylvania 19560.
2. That the Muhlenberg Township Police Labor Organization is a labor organization with in the meaning of Section 3(f) of the Pennsylvania Labor Relations Act with its address located at P.O. Box 13811, Reading, Pennsylvania 19612.
3. That the union is the recognized bargaining representative of a unit of police officers of Muhlenberg Township.
4. That Todd A. Graeff holds the position of lieutenant. The position of chief of police, held by Robert M. Flanagan, is excluded from the bargaining unit. (N.T. 6, 25)
5. That the parties stipulated and agreed that the duties, responsibilities and functions that the lieutenant actually performs on behalf of the Muhlenberg Township Police Department include the following:
  - A. The general administration, control and efficient operation of the Police Department, as referenced in a letter from Robert M. Flanagan, Chief of Police, dated October 10, 2005.
  - B. The making of all necessary decisions incumbent on the Chief of Police, including writing policies, administering discipline, budget formulation, and overseeing daily operations.
  - C. The development of policies and procedures for the Department in order to implement directives from the Muhlenberg Township Board of Commissioners,

and the review of department performance and effectiveness and formulation of programs and policies to alleviate deficiencies.

- D. The formulation and enforcement of Police Department policies and procedures, including his preparation and effective recommendation of the following Department policies, all of which were adopted by the Police chief as presented by the Lieutenant:
  - a. A policy regarding the Traffic Enforcement and Crash Investigation Unit (Special Order No. 2004-02);
  - b. A policy regarding use of the Cell Block and Central Processing Center (Special Order No. 2005-01);
  - c. A policy implementing a physical fitness and wellness program (General Order No. 03-033).
- E. Supervises and coordinates the preparation and management, and directs the implementation of, Department budgetary matters, as referenced in the October 10, 1005, letter.
- F. The supervision of all personnel of the Police Department, either directly or indirectly, through subordinate supervisors as referenced in General Order No. 02-029, Lieutenant Duties.
- G. The Lieutenant evaluates staff performance and submits written recommendations for or against officers in the Department.
- H. The Lieutenant is responsible for imposing informal discipline of employees and makes effective recommendations to the Police Chief regarding more serious discipline such as suspension, demotion or termination.
- I. The Lieutenant maintains liaison and effective communication with the media, and issues press releases and statements.
- J. Represents the Muhlenberg Township Police Department in a variety of local, county, state and other meetings.
- K. The Lieutenant conducts the investigation of complaints against employees and reports to the Police Chief with recommended action to be taken.
- L. The Lieutenant trains and develops Department personnel.
- M. The Lieutenant engages in public relations on behalf of the Police Department by meeting with the public on all aspects of the Police Department's activities.
- N. The representation of the Department on all external relations including meeting with elected or appointed officials, other law enforcement officials, community and business representatives and the public.
- O. Handles grievances and investigates complaints made against Department personnel.
- P. Represents the Department in relations and cooperation between the Department and county, state and federal law enforcement officers as appropriate where activities of the Department are involved.
- Q. Maintains responsibility for integrity and safekeeping evidence.

- R. Maintains normal availability by radio or telephone for a call out for consultation on major emergencies.

(Joint Stipulations of Fact, March 15, 2006)

#### DISCUSSION

The union has filed a petition for unit clarification to exclude the position of lieutenant from the police collective bargaining unit recognized by the Borough on the grounds that the lieutenant is a managerial employee. In response, the Township and the Union filed joint stipulations of fact concerning the duties and responsibilities of the lieutenant.

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 stipulations of fact demonstrate that the lieutenant is a managerial employee under the Star Lodge managerial test. Lieutenant Graeff has the authority, and he has actually exercised the authority, to perform several of the Star Lodge managerial functions. The stipulations show that Lieutenant Graeff exercises managerial authority in policy formulation, policy implementation and overall personnel administration as evidenced by effective involvement in serious disciplinary action and dismissals.

Accordingly, the position of lieutenant will be excluded from the police bargaining unit as a managerial employee.

#### CONCLUSIONS

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

1. Muhlenberg Township is an employer within the meaning of the PLRA and Act 111.
2. Muhlenberg Township Police Labor Organization is a labor organization within the meaning of the PLRA and Act 111.
3. The Board has jurisdiction over the parties hereto.

4. The lieutenant 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 lieutenant 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 nineteenth

day of April, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

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THOMAS P. LEONARD, Hearing Examiner

April 19, 2006

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MUHLENBERG TOWNSHIP  
Case No. PF-U-05-100-W

Enclosed please find a copy of the Proposed Order of Unit Clarification issued in this matter.

Sincerely,

Thomas P. Leonard  
Hearing Examiner

Enclosure

cc: Muhlenberg Township  
Muhlenberg Township Police Labor Organization