

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
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:  
: Case No. PERA-U-05-500-E  
: (PERA-R-436-C)  
SHAMOKIN AREA SCHOOL DISTRICT :

**PROPOSED ORDER OF DISMISSAL**

On October 28, 2005, AFSCME, District Council 86 (Union or Petitioner) filed a petition for unit clarification with the Pennsylvania Labor Relations Board (Board) requesting that the Board include the position of assistant buildings and grounds supervisor in the unit of nonprofessional employes certified by the Board at PERA-R-436-C.

On April 12, 2004, the Secretary of the Board issued an Order and Notice of Hearing in which the matter was assigned to a telephone pre-hearing conference for the purpose of seeking resolution of the matters in dispute through mutual agreement of the parties and February 23, 2006, in Harrisburg was assigned as the time and place of hearing, if necessary.

The hearing was necessary and was held as scheduled before Thomas P. Leonard, Esquire, a hearing examiner of the Board, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.

The Examiner, on the basis of the testimony presented at the hearing, and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. That the Shamokin Area School District is a public employer within the meaning of Section 301(1) of the Act.
2. That AFSCME, District Council 86 is an employe organization within the meaning of Section 301(3) of the Act.
3. That on January 20, 1972, the Board, at Case No. PERA-R-436-C, certified the Union as the exclusive bargaining representative of a subdivision of the employer unit comprised of teacher aides, all cafeteria employes, custodian [sic], maintenance, and secretaries, and excluding supervisors, first level supervisors and confidential employes as defined in the Act. (N.T. 3-4, Board Exhibit 1)
4. That William Karpinski is the assistant buildings and grounds supervisor, appointed to the position on August 9, 2005, to succeed Daniel Richardson. (N.T. 9-15, 27-29, Board Exhibit 1)
5. That Richardson was the first person to fill the position of the assistant buildings and grounds supervisor. He held the position from April, 2004 to June, 2005, when he was promoted to supervisor upon the retirement of Forest Shurock. (N.T. 9-15, 27-29. District Exhibit 1, Union Exhibit 2)
6. That Karpinski has been employed for 26 years with the District, starting off in the maintenance department. (N.T. 9-10, 15)
7. That Karpinski reports to Daniel Richardson, the supervisor for buildings and grounds. (N.T. 13, 21)
8. That the District employs approximately 35 buildings and grounds employes. They work at three (3) district buildings: the annex (K4 and first grade), the elementary school and the high school. They also work at the athletic facility. (N.T. 11, 13)

9. That the 35 employes include the following bargaining unit employes: four maintenance employes, three head custodians and 28 custodians. (N.T. 22, District Exhibit 2)

10. That Karpinski receives maintenance work orders from building principals, the business manager and the superintendent. He then assigns the work orders to one of the four maintenance employes who is most qualified to perform the task. He then is responsible for seeing that the work is completed in a timely and proper way. (N.T. 10-11, 13, 17)

11. That in some cases where the employe lacks knowledge about a particular job, Karpinski must direct the maintenance employe in the performance of the job. (N.T. 14)

12. That Karpinski also has the responsibility for taking supply request work orders and directing them to one of the three head custodians for completion. (N.T. 18)

13. That Karpinski has the authority to discipline employes if the need arises, which has not occurred in the short time he has held the position. (N.T. 15, 21)

#### DISCUSSION

The union's petition for unit clarification seeks to include the assistant manager, buildings and grounds in the nonprofessional unit. The District opposes the petition on the grounds that the position is a supervisor under Section 301(6) of the Public Employe Relations Act.

Section 301(6) of the Public Employe Relations Act defines a supervisor as:

'Supervisor' means any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employes or responsibly to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

43 P.S. 1101.301(6)

The Board has stated that in order for an employe to be excluded from a bargaining unit as a supervisor under Section 301(6) of the Act, the record must contain substantial and legally credible evidence that the employe has the authority to perform one or more of the functions listed in that section, actually exercises that authority and uses independent judgment when exercising that authority. McKeesport Area School District, 14 PPER 14165 (Final Order 1983); Millville Area School District, 15 PPER 15088 (Order Directing Submission of Eligibility List 1984). Authority that carries with it the power to reward or sanction employes is what distinguishes a supervisor who may not be included in a bargaining unit from a lead worker who may be included in a bargaining unit. Danville Area School District, 8 PPER 195 (Order and Notice of Election 1977).

The District has proven that Karpinski is a supervisor under Section 301(6) of the Act. Karpinski has the authority to independently assign employes and to independently direct their work. He is the district employe who is responsible for assigning the maintenance crew to different projects throughout the day and week, depending on their abilities and skills and to direct them if necessary. cf. Danville Area School District, supra. Karpinski knows the particular skills possessed by the different members of the maintenance staff; he takes these skills into account when he makes his assignments. He does this independently, without assistance or review by his supervisor. Karpinski is also the person who is responsible for assigning work orders for supplies to the head custodians. Karpinski has supervisory status because, in addition to the above mentioned responsibilities to assign work and direct the employes, Karpinski possesses the authority to discipline employes, if the need arises. Danville Area School District, supra.

CONCLUSIONS

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

1. That Shamokin Area School District is a public employer within the meaning of Section 301(1) of the Act.
2. That AFSCME District Council 86 is an employe organization within the meaning of Section 301(3) of the Act.
3. That the Board has jurisdiction over the parties hereto.
4. That the assistant buildings and grounds supervisor is a supervisor under Section 301 (6) of the Act.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the petition for unit clarification is dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

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

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twentieth day of April, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

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THOMAS P. LEONARD, Hearing Examiner