

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
 :  
 : Case No. PF-U-05-127-W  
 :  
 ETNA BOROUGH :

**PROPOSED ORDER OF UNIT CLARIFICATION**

On September 19, 2005, Etna Borough (Borough) and the Borough of Etna Police Association (Association) filed a petition for unit clarification with the Pennsylvania Labor Relations Board (Board) concerning the position of chief of police. On September 28, 2005, the Secretary of the Board issued an order and notice of hearing. On February 6, 2006, the Borough and the Association filed stipulations of fact and waived the right to an evidentiary hearing.

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

FINDINGS OF FACT

1. The Borough's police chief actively recruits part-time police officers and recommends them to borough council. Those recommendations have always been accepted. (Stipulation 1)
2. The police chief chooses the people who will sit for the oral exams for the filling of full-time police vacancies according to the borough civil service rules. He performs the background checks on those individuals and sits on the final selection committee. (Stipulation 2)
3. The police chief can fire or discipline the part-time police officers. The police chief can issue written reprimands for full-time officers. The police chief has made recommendations for the suspension and firing of full-time officers and those recommendations have always been accepted. (Stipulation 3)
4. The police chief created the police policy and procedures manual, which was accepted by borough council without substantive changes. The police chief has recommended changes to the police policy and procedures manual and those recommendations have been accepted without changes. (Stipulation 4)
5. The police chief makes recommendations to the mayor concerning the police budget. The police chief has authority to determine what items are purchased under the budget and requests for new equipment have always been granted to date. (Stipulation 5)
6. The police chief prepares the schedule for all of the Borough's police officers. The chief can approve or disapprove all extra details performed by the Borough's police officers. (Stipulation 6)

DISCUSSION

The unit clarification petition presents the issue of whether the position of chief of police is managerial and therefore should be excluded from the bargaining unit of police officers employed by the Borough. In deciding questions of managerial status under Act 111, the Board employs the following criteria that were set forth in Fraternal Order of Police, Star Lodge No. 20 v. PLRB, 522 A.2d 697 (Pa. Cmwlth. 1987), aff'd per curiam, 522 Pa. 149, 560 A.2d 145 (1989):

"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. Managerial status may be found even when some of these indicia are absent "[b]ecause all the criteria of managerial status are seldom present in any one case." Id. at 705.

The record indicates that the chief of police meets the policy formulation criterion of Star Lodge. The chief created the police policy and procedures manual, which was accepted by borough council without substantive changes (FF 4). The chief has also recommended changes to the policy and procedures manual, and those recommendations have been accepted without changes. Id.

With regard to personnel administration, the chief actively recruits part-time police officers and recommends them to borough council, and those recommendations have always been accepted (FF 1). The chief can fire or discipline part-time police officers, and can issue written reprimands for full-time officers (FF 3). The chief has also made recommendations for the suspension and firing of full-time officers, and those recommendations have always been accepted. Id. Thus, the chief of police meets the three-part standard for overall personnel administration responsibility. See City of Lancaster, 27 PPER ¶ 27254 (Proposed Order of Unit Clarification, 1996); Curwensville Borough, 23 PPER ¶ 23090 (Order Directing Submission of Eligibility List, 1992). Although the chief does not meet all of the criteria of Star Lodge, his role in policy formulation and overall personnel administration warrants a finding that the position is managerial and must be excluded from the bargaining unit.

#### CONCLUSIONS

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

1. The Borough is an employer within the meaning of the Pennsylvania Labor Relations Act (PLRA) and Act 111.
2. The Association is a labor organization within the meaning of the PLRA and Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The position of chief of police is managerial under the PLRA and Act 111.

#### 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 bargaining unit of police officers employed by the Borough is hereby amended to exclude the position of chief of police, and

IT IS HEREBY FURTHER ORDERED AND DIRECTED

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

SIGNED, DATED and MAILED this tenth day of February, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

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Peter Lassi, Hearing Examiner

February 10, 2006

Edward Winschel  
Etna Borough Police Association  
437 Butler Street  
Pittsburgh, PA 15223

Peter Ramage  
Etna Borough  
437 Butler Street  
Pittsburgh, PA 15223

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Enclosed is a copy of the proposed order of unit clarification issued in the above-captioned matter.

Sincerely,

PETER LASSI  
Hearing Examiner

Enclosure

cc: Michael J. Colarusso, Esquire  
Pittsburgh Regional Office