

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PF-R-07-72-E
: :
SOUTH BUFFALO TOWNSHIP :

ORDER DIRECTING SUBMISSION OF ELIGIBILITY LIST

On April 12, 2007 Teamsters Union Local 538 (Petitioner or Union) filed with the Pennsylvania Labor Relations Board (Board) a petition for representation seeking to represent a bargaining unit comprised of all full-time and regular part-time non-managerial police officers employed by South Buffalo Township (Respondent or Township).

On April 27, 2007, the Secretary of the Board issued an order and notice of hearing directing that a hearing be held on May 30, 2007, in Pittsburgh. At the request of the parties, the hearing was continued to June 20, 2007 to resolve the issues without a hearing. The parties were not able to resolve the issues and the hearing was held before Thomas P. Leonard, 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 hearing examiner, on the basis of the testimony and exhibits presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. That the parties stipulated and agreed that South Buffalo Township is an employer within the meaning of the Pennsylvania Labor Relations Act. (N.T. 6)
2. That the parties stipulated and agreed that the Teamsters Local Union Local 538 is a labor organization within the meaning of the Pennsylvania Labor Relations Act. (N.T. 6)
3. That the Township is governed by a three member Board of Supervisors and operates under the Pennsylvania Second Class Township Code. (N.T. 9, 24)
4. That the Township employs two full-time police employes, Jeffrey Kuntz and Captain Anthony Chiesa. (N.T. 6-7, 12)
5. That the Township employs one regular part-time police employe, Scott Hess, whom the parties stipulated is eligible to vote in a representation election. (N.T. 7)
6. That Chiesa became a full-time police officer in 1992 and became a captain in approximately 1998. (N.T. 31)
7. That Chiesa developed the police policy and procedure manual shortly after he was hired 14 years ago. The supervisors approved the manual that he developed. (N.T. 48-49, 51)
8. That Chiesa has added sections to the manual since the original manual was prepared. (N.T. 48, 51)
9. That Chiesa has recommended the hiring of police officers. Chiesa collects applications from interested candidates and then forwards his hiring recommendations to the supervisors. The Township supervisors have always agreed with his hiring recommendations. (N.T. 16, 46-47, 53, 56-57)
10. That Chiesa has the authority to make purchases for the police department and has exercised that authority. (N.T. 18, 38-39)

DISCUSSION

The Union has petitioned the Board to represent a bargaining unit comprised of all "full-time and regular part-time police officers including captain and patrol officers."

The Township contends that the position of Captain, held by Anthony Chiesa, should be excluded from the unit as a managerial employe.

Under FOP Star Lodge No. 20 v. Commonwealth of Pennsylvania, PLRB, 522 A.2d 697 (Pa. Cmwlth. 1987), aff'd per curiam, 522 Pa. 149, 560 A.2d 145 (1989)(Star Lodge), the exercise of any of the following six functions is indicative of managerial status on the part of a police officer:

"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 Township, as the party seeking to exclude the position, must carry the burden of proving the managerial exclusion. Star Lodge, supra. A position may be found managerial even though it does not meet all the above-mentioned criteria, "[b]ecause all the criteria of managerial status are seldom present in any one case." 522 A.2d at 705. A position below the rank of chief may be found managerial; in Star Lodge, captains were found to be managerial. Also, the size of the full time complement does not matter. For example in Dalton Borough, 765 A.2d 1171 (Pa. Cmwlth. 2001) the chief, who was found to be managerial, was the only full-time employe in a department of part-time officers.

The Township proved that Captain Chiesa is a manager under the Star Lodge test because he meets three of the criteria: policy formulation; overall personnel administration and purchasing.

The Township proved that Chiesa developed the original policy and procedure manual years ago that the department followed. Later on in his career, he developed additions to the manual, which are also followed by the department.

Second, the Township has met its burden of proven Captain Chiesa has exercised overall personnel administration responsibility. The supervisors have entrusted Chiesa with the responsibility of recommending new hires for the department. Chiesa has accepted that responsibility and has successfully recommended the last several hires. The supervisors are part-time. Therefore, the daily administration of the police department is entrusted to Captain Chiesa. They have entrusted the hiring role to Chiesa because he is a veteran police employe who knows the availability of potential hires as well as their abilities and qualifications. In Dalton Borough, supra. a similar role in recommending hires was found to meet the Star Lodge test of a managerial employe.

Finally, the Township has proven that Chiesa has the authority to make purchases for the police department and has exercised that authority.

Based on this record, the Township has proven that the position of captain is managerial.

CONCLUSIONS

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

1. That South Buffalo Township is an employer within the meaning of section 3(c) of the PLRA and Act 111.
2. That the Teamsters Union Local 538 is a labor organization within the meaning of section 3(f) of the PLRA and Act 111.
3. That the Board has jurisdiction over the parties.
4. That the unit appropriate for the purpose of collective bargaining is a subdivision of the employer unit comprised of all full-time and regular part-time police officers and excluding all managerial employees.
5. That the position of captain is a managerial employee.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the Township shall within ten (10) days of the date hereof submit to the Board an alphabetized list of the names and addresses of the police officers eligible for inclusion in the unit set forth above.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that any exceptions to this order may be filed to the order of the Board Representative to be issued pursuant to 34 Pa. Code § 95.96(b) following the conduct of an election.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this twenty-fifth day of July, 2006.

PENNSYLVANIA LABOR RELATIONS BOARD

THOMAS P. LEONARD, Hearing Examiner