

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: Case No. PF-U-06-105-E
:
CITY OF CHESTER :

PROPOSED ORDER OF UNIT CLARIFICATION

On June 21, 2006, the City of Chester (City) and the Fraternal Order of Police, Lodge No. 19 (FOP) filed a joint petition for unit clarification with the Pennsylvania Labor Relations Board (Board) concerning the position of major. On August 2, 2006, the Secretary of the Board issued an order and notice of hearing directing a hearing before a Board hearing examiner on September 26, 2006. On September 12, 2006, the City and the FOP filed stipulations of fact and waived the right to an evidentiary hearing. On September 26, 2006, the City and the FOP filed amended stipulations of fact.

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 FOP is the exclusive representative of a bargaining unit that is comprised of all police officers employed by the City, excluding the chief of police and all other managerial employees. (Stipulations 1, 2)

2. To date, the position of major has been included in the police bargaining unit. (Stipulation 3)

3. Majors have the authority to and actually do develop and change programs of the police department. This has been demonstrated by the majors authoring procedures that were implemented by the chief and the mayor with little or no change and through the regular issuance of orders which govern behavior of civilian employees including secretarial, payroll, abandoned vehicle department, map coordinator, crossing guard and information desk employees. (Stipulation 5)

4. Recommendations from the majors have regularly been solicited in hiring decisions and those recommendations have consistently been followed. (Stipulation 7)

5. Majors also make recommendations in matters regarding serious disciplinary matters, including suspensions, and those recommendations have usually been followed. (Stipulation 8)

DISCUSSION

The unit clarification petition presents the issue of whether the position of major is managerial and therefore should be excluded from the bargaining unit of police officers employed by the City. 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.

With regard to overall personnel administration responsibility, the majors have made effective recommendations concerning hiring and serious disciplinary matters, including suspensions. However, there is no indication that the majors have made effective recommendations concerning dismissals. Therefore, the majors do not meet the three-part standard for overall personnel administration responsibility. See City of Lancaster, 27 PPER ¶ 27254 (Proposed Order of Unit Clarification, 1996)(element of overall personnel administration responsibility is comprised of three parts which are set forth in the conjunctive); Curwensville Borough, 23 PPER ¶ 23090 (Order Directing Submission of Eligibility List, 1992)(same).

On the other hand, the majors do meet the policy formulation criterion of Star Lodge. They regularly issue orders governing the behavior of various employes of the City. Thus, the position of major is managerial and will 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 City is an employer within the meaning of the Pennsylvania Labor Relations Act (PLRA) and Act 111.
2. The FOP 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 major 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 City is hereby amended to exclude the position of major, 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 sixth day of March, 2007.

PENNSYLVANIA LABOR RELATIONS BOARD

Peter Lassi, Hearing Examiner