

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PERA-U-08-326-W
: (PERA-R-07-204-W)
SUMMIT TOWNSHIP :

PROPOSED ORDER OF UNIT CLARIFICATION

On August 28, 2008, Summit Township (Township) filed with the Pennsylvania Labor Relations Board (Board) a petition for unit clarification alleging that a unit of its employees who are represented by the American Federation of State, County and Municipal Employees, District Council 83 (AFSCME), under a certification issued by the Board at Case No. PERA-R-07-204-W should be clarified by removing the Township's secretary/treasurer from it. On September 3, 2008, the Secretary of the Board issued an order and notice of hearing directing that a hearing be held on October 23, 2008. The hearing was held as scheduled. The hearing examiner afforded both parties a full opportunity to present evidence and to cross-examine witnesses. On November 20, 2008, the reporter filed the notes of testimony with the Board. Neither party has filed a brief.

The hearing examiner, on the basis of the evidence presented at the hearing and from all other matters of record, makes the following:

FINDINGS OF FACT

1. On June 1, 2007, the Board certified AFSCME as the exclusive representative of the Township's employees in a unit described as follows:

"All full-time and regular part-time nonprofessional employees including, but not limited to lead worker, laborers, and clerical employees; and excluding management level employees, supervisors, first-level supervisors, confidential employees and guards as defined in the [Public Employee Relations] Act [(PERA)]."

(Case No. PERA-R-07-204-W)

2. The Township has appointed its only clerical employee (Patricia Johnson) as its secretary/treasurer. She is the only source of information used by the Township's elected officials in collective bargaining. (N.T. 3-4)

DISCUSSION

In West Hanover Township v. PLRB, 646 A.2d 625 (Pa. Cmwlth. 1999), the court found that a township secretary was not eligible for inclusion in a bargaining unit as a matter of law. As the court explained,

"because the township secretary is an officer of the municipal body, the inclusion of such an appointed officer within the bargaining unit for the township workers would be just as inappropriate as the inclusion of the corporate secretary of a business corporation within a workers' bargaining unit."

Id. at 632. As the court further explained:

"The township secretary, as the official custodian of all files of the township, is obviously essential to performance of the bargaining function on behalf of the employer municipality. If the manager must exclude the township secretary, who is also his administrative assistant, from participation on his side of the bargaining table--as he would have to do if the township secretary is a member of the bargaining unit--the manager would be deprived of the assistance of the township officer most allied with him in the bargaining process.

Therefore, including the township secretary in the bargaining unit results in a definite conflict of interest, rather than a community of interest, with the employees who make up the larger component of the bargaining unit."

Id. at 633 (emphasis in original).

Thus, in Borough of Ridley Park, 27 PPER ¶ 27227 (Final Order 1996), the Board found that a secretary/treasurer who was responsible for maintaining financial records and personnel files for a borough was not eligible for inclusion in a bargaining unit. As the Board explained, West Hanover Township "require[es] the exclusion of any appointed municipal Secretary whose duties include being the 'official custodian of all files' of the municipality." 27 PPER at 514.

Given that the secretary/treasurer is an officer of the Township and the only source of information used by the Township's elected officials in collective bargaining (finding of fact 2), it is apparent that she, like the township secretary in West Hanover Township and the secretary/treasurer in Borough of Ridley Park, "is obviously essential to performance of the bargaining function on behalf of the employer municipality." West Hanover Township, 646 A.2d at 632. Accordingly, the secretary/treasurer is not eligible for inclusion in the unit.

CONCLUSIONS

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

1. The Township is a public employer under the PERA.
2. AFSCME is an employe organization under the PERA.
3. The Board has jurisdiction over the parties.
4. The secretary/treasurer is not eligible for inclusion in the unit.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the unit previously certified by the Board at Case No. PERA-R-07-204-W is amended to exclude the secretary/treasurer.

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 days of the date hereof, this order shall be final.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this twenty-first day of November 2008.

PENNSYLVANIA LABOR RELATIONS BOARD

DONALD A. WALLACE, Hearing Examiner