

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of

OFFICE OF LABOR RELATIONS
Petitioner

DECISION NO. B-10-68

DOCKET NO. BCB-25-68

vs.

SOCIAL SERVICE EMPLOYEES UNION
Respondent

DECISION AND ORDER

The petition herein challenges the arbitrability of a grievance urged by Respondent. Issue was joined by the service of Respondent's answer and Petitioner's reply.

Upon consideration of the pleadings herein, and after due deliberation, the Board of Collective Bargaining issues the following decision:

The grievance which Respondent seeks to arbitrate is that certain Caseworkers in the Department of Social Services are "declared to be ineligible for a promotion to the Senior Caseworker position".

The only contention that Petitioner makes is that the matter sought to be arbitrated is not a grievance "in that it is an invasion of the management prerogative clause of the agreement between the parties".

Petitioner and Respondent are parties to a collective bargaining agreement which provides in Article XIV:

"Section 1 - Definition: A grievance is defined as:

1. A claimed violation, misinterpretation, inequitable application, or non-compliance with the provisions of this contract or of any supplemental agreement."

In Article V, Section 1 (a) of the contract, Petitioner agrees to recommend the establishment of 800 Senior Caseworker positions. Section 1 (e) provides that the Senior Caseworker position shall be competitive and sets forth the requirements for eligibility for promotion from Caseworker.

Thus, it is clear that Petitioner's contention that the grievance infringes on the management rights clause of the contract involves a question of the interpretation or application of the contract and is a grievance within the express language of the above-quoted section of the collective bargaining

agreement. Since the dispute is a grievance under the terms of the contract between the parties, it is also a grievance within the meaning of the New York City Collective Bargaining Law (Section 1173 - 3.0(0)). Accordingly, we find and conclude that the grievance is a proper subject for arbitration,

O R D E R

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

O R D E R E D, that this proceeding be, and the same hereby is, referred to Walter Eisenberg, the arbitrator designated by the parties in their collective bargaining agreement.

DATED: New York., N.Y.
December 30, 1968

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

SAUL WALLEN
MEMBER

HARRY VAN ARSDALE, JR.
MEMBER

Timothy W. Costello, City of the Board of Collective Bargaining, did not join in the above decision.