

City v. L. 237, CEU, 5 OCB 5 (BCB 1970) [Decision No. B-5-70
(Arb)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of
THE CITY OF NEW YORK

DECISION NO. B-5-70

-and-

DOCKET NO. BCB-64-70

CITY EMPLOYEES UNION, LOCAL 237,
I.B.T.

DECISION AND ORDER

Respondent City Employees Union, Local 237, I.B.T. served a request for arbitration of an alleged grievance involving the arbitrary and discriminatory assignment of Head Dieticians to weekend duty. The request alleges that seven out of twelve Head Dieticians in the Department of Hospitals (Kings County Hospital) are assigned to work two weekends out of four, while the remaining five Head Dieticians are assigned to work only one weekend out of four, and it asserts that Head Dieticians ought to be assigned to duty on a "strict roster rotation basis."

The request for arbitration does not cite any contract, personnel order, rule or regulation claimed to have been violated by the City,

The City, by its amended petition, contests arbitrability on the ground that the subject matter sought to be arbitrated does not constitute a grievance under or a violation of Executive Order 52 and the New York City Collective Bargaining Law, and that the grievance seeks to invade and assume managerial responsibility reserved to the Department of Hospitals.

Rule 7.7 of the Rules of the Office of Collective Bargaining provides:

"Within ten (10) days after service of the petition, respondent shall serve and file its answer upon petitioner and any other party respondent, and shall file the original and three (3) copies thereof, with proof of service, with the Board."

Local 237 has failed to interpose an answer although the time to do so has expired, and we may deem the allegations in the petition admitted by default. Accordingly, we shall grant the City's petition.

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

ORDERED, that the petition filed by the City of New York herein, be, and the same hereby is granted on default; and it is hereby

ORDERED, that the request for arbitration filed by City Employees Union, Local 237, I.B.T., be, and the same hereby is denied.

DATED: New York, N.Y.
September 22 , 1970.

ARVID ANDERSON
C h a i r m a n

ERIC J. SCHMERTZ
M e m b e r

WALTER L. EISENBERG
M e m b e r

TIMOTHY W. COSTELLO
M e m b e r

EDWARD SILVER
M e m b e r

EARL SHEPARD
M e m b e r

HARRY VAN ARSDALE, JR.
M e m b e r