

DC37, et. Al v. City, 10 OCB 2 (BOC 1972) [Decision No. 2-72
(Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

COURT OFFICIALS COUNCIL OF NEW YORK:

DECISION NO. 2 - 72

and

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO,

DOCKET NO. RU-200-7C

Petitioners,

and

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

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DECISION, ORDER AND DESIGNATION

On June 30, 1970 The Court Official's Council of New York ("the Council") filed a petition with the Office of Collective Bargaining requesting certification as collective bargaining representative of one of a number of alternative units. Included in such request was a unit of "all non-judicial employees, of the Judicial Conference within the City of New York."

Objections to such certification were thereafter filed by District Council 37, AFSCME, AFL-CIO ("D.C. 37") and Communications Workers of America, Local 1180 ("CWA,") on the ground that each of these unions was the certified representative of various non-judicial employees of the Judicial Conference and that the certification requested by the Council would conflict with their prior certifications. Thereafter D.C. 37 and CWA withdrew their objections. objections.

However, on June 3, 1971, the Council and D.C. 37 joined in a motion to amend the petition by adding D.C. 37 as a petitioner and, in addition, to change the description of the unit requested by substituting the term "designated" in place of the term "certified." The said motion (construed by the Board as a joint petition for representation) was supported by a stipulation of the parties which reads as follows:

"First, that there be added as a petitioner District Council 37, AFSCME-AFL-CIO. Second, that the joint petitioners be designated as the bargaining representative for all non-judicial employees of the unified court system within the City of New York on matters which should be uniform for all employees in the unit."

For the reasons hereinafter mentioned the said motion is granted.

Subsequent to the Amendment of said petition, the Mayor, by letter dated December 20, 1971, approved a request by the Administrative Board of the Judicial Conference to amend its previous election¹ In so far as it is pertinent the said amended elections removed limitations in the previous elections so that the provisions of Section 5a(3) of Mayor's Executive Order No. 52 (1967) is now applicable to all of its non-judicial employees for the same purposes as those provisions are applicable

¹ In 1968 the Administrative Board of the Judicial Conference elected to have the provisions and procedures of the NYCCBL made applicable to its non-Judicial employees.

to employees of a Mayoral department.²

Thus, in effect, the Administrative Board of the Judicial Conference is analogous to a Mayoral department with respect to the level of bargaining contemplated by Section 5a(3) of Mayoral Executive Order No. 52 now operative as Section 1173-4.3a(3) of the NYCCBL.

In this respect it is noted that the pertinent portion of the election by the Judicial Conference to co-me within the coverage of the New York City Collective Bargaining Law reads as follows:

"For the purposes of Section 1173-3-0(1) 'matters within the scope of collective bargaining' Section 5a(3) of Mayor's Executive Order No. 52 (1967) shall be deemed to require bargaining by the Administrative Board of the Judicial Conference and the City of New York (through the Mayor's Office of Labor Relations) jointly with the representative of covered employees on matters which must be uniform for all such employees only..."

Since the date of the election by the Administrative Board (and approval by the Mayor), the NYCCBL has been amended so that the provisions of section 5a(3) of Mayoral Executive Order No. 52 (1967) were transplanted into, and are now part of, Sec.1173-4.3a(3) NYCCBL.

Section 1173-4.3a(3) of the New York City Collective Bargaining Law, which is now operative employs the precise language of Mayor's executive Order No. 52 (1967) Section 5a(3), and reads as follows:

"(3) matters which must be uniform for all employees in a particular department shall be negotiated only with a certified employee organization, council or group of certified employee organizations designated by the board of certification as being the certified representative or representatives of bargaining units which include more than fifty per cent of all employees in the department;"

Essentially, the same principle involved in the instant matter was also involved in Matter of D.C. 37 - and New York City Health and Hospitals Corp. , (Decision No. 92-70), where we held that for purposes of the above-quoted provision, the New York City Health and Hospitals Corporation was a "department". we likewise find here that for purposes of Section 1173-4.3a(3) of the New York City Collective Bargaining Law the Administrative Board of the Judicial Conference by reason of the amended election approved by the mayor, is a "department."

Our investigation establishes that the petitioners are the certified representatives of bargaining units which include a majority of the non-judicial employees of the Judicial Conference within the City of New York.

O R D E R

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

ORDERED, that COURT OFFICIALS COUNCIL OF NEW YORK and DISTRICT COUNCIL 37, AFSCME, AFL-CIO, te and they hereby are designated as the joint representative for collective bargaining purposes of all non-judicial employees of the Judicial Conference within the City of New York on matters which must be uniform for all such employees.

DATED: NEW YORK, N.Y.

January 26, 1972

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

WALTER L. EISENBERG
MEMBER