

DC37 v. City, 12 OCB 75 (BOC 1973) [Decision No. 75-73 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of

DISTRICT COUNCIL 37, AFSCME,  
AFL-CIO and/or its affiliated  
locals,

DECISION NO. 75-73

Petitioner

DOCKET NO. RU-352A-73

-and-

LOCAL 333, UNITED MARINE  
DIVISION, NATIONAL MARITIME  
UNION, AFL-CIO,

Intervenor

-and-

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

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DECISION AND ORDER

On April 2, 1973, we approved Petitioner's request for withdrawal of its petition (Docket No. RU-352-73), for certification as the collective bargaining representative of Ferry Agents and Supervising Ferry Agents, presently represented by Intervenor.

On August 20, 1973, Petitioner filed a motion for rescission of its withdrawal, stating that the withdrawal had been caused by "internal problems in regard to said titles." <sup>1</sup> The motion further states that "Since that time, any and all such impediments to representation have been fully resolved."

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By letter dated September 20, 1973, counsel for the union advised that the word "internal" was used in error and should have been "international."

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Local 333 opposed the motion for rescission, maintaining that the time to file a petition for certification for these employees “has long since expired,” and that the parties are in the process of negotiating a successor contract to the one which expired on June 30, 1973. Intervenor also maintains that the reasons stated in Petitioner’s motion “do not warrant the granting of this drastic relief.” (i.e., rescission of withdrawal].

Rule 2.7 of the Revised Consolidated Rules of the Office of Collective Bargaining reads as follows:

“§2.7 Petitions-Contract bar; Time to file.  
A valid contract between a public employer and a public employee organization shall bar the filing of a petition for certification, designation, decertification or revocation of designation during a contract term not exceeding three (3) years. A petition for certification, designation, decertification or revocation of designation shall be filed not less than five (5) or more than six months before the expiration date of the contract, or if the contract is for a term of more than three (3) years, before the third anniversary date thereof. Subject to the provisions of Section 2.18 of these rules, no petition for certification, decertification or investigation of a question or controversy concerning representation may be filed after the expiration of a contract.”

The time to file a petition for certification in this matter was January, 1973, i.e., “not less than five (5) or more than six (6) months before” June 30, 1973, the expiration date of the last contract covering the bargaining unit.

In Matter of Special and Superior Officers Benevolent Association, Decision No.23-73, we denied a similar application to rescind the withdrawal of a petition. We held in that case that it is one of the fundamental purposes of the New York City Collective Bargaining Law to achieve stability in collective bargaining relations, and that the reinstatement applied for was inconsistent with this fundamental purpose and with the provisions of Rule 2.7 which implement that purpose.

We find no circumstance in the instant matter which would warrant a departure from the rule set forth in Decision No. 23-72, nor a suspension of the provisions of Rule 2.7. Accordingly, we shall deny the motion of District Council 37 rescind the withdrawal of its petition in case number RU-352-73 .

ORDER

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

ORDERED, that the motion to rescind the withdrawal of the petition in RU-352-73 be, and the same hereby is, denied.

DATED: New York, N. Y.

September 24, 1973

ARVID ANDERSON  
CHAIRMAN

ERIC J. SCHMERTZ  
MEMBER

WALTER L. EISENBERG  
MEMBER