

L.1181, CWA, et. Al v. City, 2 OCB 49 (BOC 1968) [Decision No. 49-68 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL 1181, COMMUNICATIONS WORKERS
OF AMERICA, AFL-CIO

DOCKET NO. RU-14-68

-and-

THE CITY OF NEW YORK

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In the Matter of

DISTRICT COUNCIL 37, AFSCME, AFL-CIO

DOCKET NO. RU-44-68

-and-

THE CITY OF NEW YORK

----- x

DECISION NO. 49-68

D E C I S I O N
a n d
DIRECTION OF ELECTION

Local 1181, Communications Workers of America, AFL-CIO, herein called Local 1181, filed its petition herein on January 29, 1968 (Docket No. RU-14-68). On February 21, 1968, District Council 37, AFSCME, AFL-CIO, herein called D.C. 37, applied to intervene therein and filed its petition (Docket No. RU-44-68).

Upon consideration of its investigation, and after due deliberation, the Board of Certification issues the following Decision and Direction of Election.

I. Undisputed Matters

It is undisputed, and we find and conclude, that in fact and within the meaning of the New York City Collective Bargaining Law, Local 1181 and D.C. 37 are public employee organizations; and that a question or controversy concerning representation exists.

II. The Appropriate Unit

Local 1181 seeks certification as the collective bargaining representative of the Administrative Aides employed by the City of New York, and the addition of that title to its existing certification, by the Department of Labor, covering Senior Shorthand Reporter, Supervising Shorthand Reporter, Supervising Photostat Operator and Principal Telephone operator (CWR No. 55-67).

D.C. 37 seeks certification as the collective bargaining representative of Administrative Aides and Police Administrative Aides by accretion to an existing unit of Supervising Clerk, Stenographer, Typist and related titles, for which D.C. 37 is the certified representative (CWR No. 51-67). In the alternative, D.C. 37 seeks certification for a separate unit consisting of the two titles. Local 1181 claims, and has established, a substantial interest in such a unit.

The City takes the position that it is "not opposed" to a single unit of both titles, but without prejudice to placement in a larger, more comprehensive unit at some future time.

Each of the existing units, to which Local 1181 and D.C. 37 seek to add or accrete the titles here involved, consists entirely of supervisory employees, whereas the titles in question are non-supervisory.

Section 1173-3.01 of the New York City Collective Bargaining Law expressly provides:

"Supervisory * * * employees shall not be included in the same bargaining unit as non-supervisory * * * employees without the consent of a vote of a majority of the * * * supervisory employees involved."

In the instant case, the accretions to supervisory units requested by the unions would require, under the statute, the conduct of elections among disproportionately large numbers of supervisory employees in presently certified units, to determine the unit placement of the comparatively small numbers of non-supervisory employees here concerned. We find no such showing of mutuality of interest, or other circumstances, which would warrant the conduct of self-determination elections among the supervisory employees in previously certified units.

We do find, however, a firm basis for joining the title in a single unit. The salary levels of the two titles are the same; that of Police Administrative Aide having been fixed when the title was established, on a basis of equality with that of Administrative Aide. Their duties also are substantially similar

as shown by the job specifications for Administrative Aide and the examination announcement for Police Administrative Aide. The former" . . . performs a variety of moderately difficult administrative duties; performs related work." The Police Administrative Aide, in addition to "responsible and difficult clerical and typing tasks . . . performs administrative work of moderate difficulty * * * performs related work." (emphasis added) Their levels of responsibility are essentially the same, each acts "under supervision, with some latitude for independent action or . . . decision."

We find and conclude, therefore, that Administrative Aides and Police Administrative Aides constitute a unit appropriate for the purposes of collective bargaining,, in fact and within the meaning of the New York City Collective Bargaining Law.

III. Representative Status

Each union has shown a substantial interest among the employees in the appropriate unit. Accordingly, we shall conduct an election by secret ballot among the employees in the appropriate unit to determine whether or not they desire to be represented for the purposes of collective bargaining, and shall place the names of both unions on the ballot.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

DIRECTED, that as part of the investigation authorized by the Board, an election by secret ballot shall be conducted under the supervision of the Board of Certification or its agents, at a time, place, and during hours to be fixed by the Board, among the employees in the unit found appropriate in Section II above, employed during the payroll period immediately preceding the date of this Direction of Election (other than those who have voluntarily quit or who have been discharged for cause before the date of the election, to determine whether they desire to be represented for the purposes of collective bargaining by LOCAL 1181, COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO or by DISTRICT COUNCIL 37, AFSCME, AFL-CIO, or by neither.

Dated: New York, N.Y.

July 30, 1968

ARVID ANDERSON
C h a i r m a n

ERIC J. SCHMERTZ
M e m b e r

SAUL WALLEN
M e m b e r