

Alston, et. Al v. City, 22 OCB 43 (BOC 1978) [Decision No. 43-78 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

-----X

In the Matter of

ROBERT L. ALSTON, et al.

DECISION NO. 43-78

-and-

DOCKET NO. RD-6-78

DISTRICT COUNCIL 37, AFSCME,  
AFL-CIO

-and-

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

-----X

DECISION AND ORDER

On May 18, 1978, a group of Mortuary Caretakers filed a petition requesting the decertification of District Council 37, AFSCME, AFL-CIO, as the collective bargaining agent for their title. The 86 Mortuary Caretakers are part of a unit of eighteen titles with approximately twelve thousand employees, covered by Certification No. 46B-75 (as amended by Decisions 47-75, 28-76 and 15-77). The petition is based upon allegedly inadequate representation by District Council 37.

District Council 37 claims that "a majority of the Mortuary Caretakers are on dues checkoff to the Union and have been since 1965." D.C. 37 also points out that this petition is "barred by Section 2.7 of the Rules because of its lack of timeliness."

The City's Office of Municipal Labor Relations opposes the petition "to the extent that [it] seeks a determination that the title of Mortuary Caretaker constitutes an appropriate bargaining unit" on the ground that the present unit is appropriate. We need not comment on the allegations of inadequacy of representation, majority check-off, or inappropriateness of unit because Rule 2.7 of the Consolidated Rules of the Office of Collective Bargaining provides that "A petition for . . . decertification . . . shall be filed not less than five (5) or more than six (6) months before the expiration date of the contract. The most recent contract for the pertinent unit covers the period from July 1, 1976 (January 1, 1976, for Mortuary Caretaker) to June 30, 1978. Thus this petition was not timely filed and must be dismissed.

O R D E R

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 petition filed herein be, and the same hereby is, dismissed.

DATED: New York, New York  
August 9, 1978

ARVID ANDERSON  
CHAIRMAN

WALTER L. EISENBERG  
MEMBER

ERIC J. SCHMERTZ  
MEMBER