

L.30, 30A, et. Al v. City, et. Al, 4 OCB 46 (BOC 1969) [Decision No. 46-69 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

-----x

In the Matter of

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCALS 30, 30A, 30B,
30C and 30D, AFL-CIO

DECISION NO. 46-69

-and-

DOCKET NO. R-81-67

THE DEPARTMENT OF HOSPITALS OF
THE CITY OF NEW YORK

-----x

On March 31, 1969, a Decision and Direction of Election was issued herein (Decision No. 13-69X, directing that an election be conducted among the Stationary Firemen employed in the Department of Hospitals. Local 704, International Brotherhood of Firemen and Oilers, withdrew from the election, leaving International Union of Operating Engineers, Locals 30, 30A, 30B, 30C and 30D (herein called Petitioner) as the only union named on the ballot.

The election was conducted on May 14, 1969, and a majority of the employees casting valid ballots therein voted in favor of representation by Petitioner. No objections to the election have been filed.

The unit sought by Petitioner, and in which the election was conducted, is a departmental unit limited to Stationary Firemen employed in the Department of Hospitals only.¹ Departmental certifications for units of Stationary Firemen currently are held by Petitioner for the Departments of Public Works and Parks²; by Local 704 for the Department

Our use of the term "departmental unit," herein, does not include "designations" of representatives on matters which must be uniform for an entire department, as provided in §5a(3) of Executive Order 52, nor does it include certifications for titles unique to a particular department and which, therefore, are Citywide in effect.

Petitioner also has been certified by the City University of New York for Stationary Firemen employed by it.

of Sanitation, and by Local 56k. I.B.F.O. for the Police Department.

Stationary Firemen, not now represented for purposes of collective bargaining, also are employed in the Departments of Highways, Fire, Social Services, Correction, Marine and Aviation, and the New York City Housing Authority.

Prior to the election herein, Local 704 had petitioned for a City-wide unit of Stationary Firemen (Case No. RU-61-68). Petitioner thereupon filed a charge against Local 704, under Article XX of the AFL-CIO Constitution, alleging that the petition for a City-wide unit constituted "raiding" of Petitioner's departmental certifications of units of Stationary Firemen. The charge was sustained by the AFL-CIO's Impartial Umpire (Case No. 68-85, Decision of David L. Cole, issued October 4~ 1968), and upheld on appeal by a sub-committee of the AFL-CIO Executive Council, despite a memorandum from this Board which pointed out the minimal representational rights carried by departmental certifications and requested that the policy applied by the AFL-CIO to different types of federal certifications be applied to the City of New York (See Matter of Local 246, S.E.I.U., Decision No. 45-69, issued simultaneously herewith). As a result, Local 704 withdrew its petition for a City-wide unit.

In Matter of Local 246, S.E.I.U., supra, we have pointed out that departmental units which carry minimal representational rights, originally were considered "building blocks" which, as organization progressed, would be combined into, or superseded by, City-wide units with substantially greater representational rights; that the use; or availability of the no-raiding pact as a means to prevent certification of rival unions as City-wide representatives, frustrates that original

purpose, denies employees their full bargaining rights, defeats the purposes and policies of the NYCCBL, and renders such departmental units no longer appropriate. We stated, therefore, that, in the future, we shall deem departmental units inappropriate for purposes of collective bargaining, that we shall dismiss petitions filed for such units, and, at appropriate times, will terminate outstanding departmental certifications. However, we have decided to make an exception in the instant case because of the unusual circumstances presented. The petition was filed with the City Department of Labor on September 21, 1967, and subsequently was transferred to the Board. Processing thereof was delayed by this transfer of jurisdiction, by the subsequent City-wide petition filed by Local 704, the proceedings on the raiding charge, and our consideration of the difficult problems presented herein. Under all the circumstances, including the fact that an election was conducted, and won by Petitioner, on May 14, 1969, we shall issue a certification herein. Such certification, however, shall be effective for only one year from the date hereof, and any collective bargaining agreement pursuant to said-certification shall be similarly limited.

CERTIFICATION

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

CERTIFIED, that International Union of Operating Engineers, Locals 30, 30A, 30B, 30C, and 30D, AFL-CIO, is the representative for the purposes of collective bargaining, as limited by §5 of Executive Order 52, of all Stationary Firemen employed by the Department of Hospitals of the City of New York, provided, however, that this certification and any collective bargaining agreement pursuant thereto, will terminate one year from the date hereof.

DATED: New York, N.Y.

July 14 , 1969.

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
