

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

----- X

In the Matter of  
  
COMMUNICATIONS WORKERS OF AMERICA,  
LOCAL 11879 AFL-CIO

DECISION NO. 9-69

-and-

DOCKET NO. RU-39-68

THE CITY OF NEW YORK

----- X

---

**DECISION AND ORDER**

Communications Workers of America, Local 1187, AFL-CIO, herein called Petitioner, filed a petition for certification as the collective bargaining representative of the Labor-Management Practices Adjusters, Senior Labor-Management Practices Adjusters and Principal Labor-Management Practices Adjusters, herein called Principal Adjusters, employed in the Economic Development Agency.

In Certification No. 63-68, the Board certified Petitioner as the exclusive representative of all Labor-Management Practices Adjusters and Senior Labor-Management Practices Adjusters employed by the City of New York. The Board also ordered that so much of this proceeding as related to Principal Adjusters be severed.

Prior to the issuance of such certification, a hearing had been held, on October 15, 1968, before Richard J. Horrigan, Esquire, Trial Examiner on the questions relating to Principal Adjusters.

Upon consideration of the entire record herein, the Board renders the following decision:

I. Alleged Managerial Status

The City contends that the Principal Adjusters are managerial employees and hence are not entitled to bargain collectively.

There are two Principal Adjusters in the employ of the City and five Adjusters in the titles already certified by the Board. Adjusters are employed by the Mayor's Committee on Exploitation of Workers, which has been a part of the New York City Department of Labor since 1957. The Adjusters handle all kinds of labor-related problems and process every type of complaint in the private sector.

The entire Department of Labor, where the Adjusters are employed, the Department of Commerce and certain functions of the Departments of Marine & Aviation and of Markets are now part of the Economic Development Administration, herein called EDA.

EDA has an "Executive Management and Administrative Services" program which directs the entire Administration; establishes policy and procedures; does management planning; and studies and analyzes operating techniques. Mr. Stiefel, Assistant to the Commissioner of Labor and the immediate superior of the Adjusters, testified that the structure of the EDA was being established and that an Administrator had been appointed. It was estimated that there would be approximately four or five

Deputy Administrators or Commissioners appointed in the Administration.

The Commissioner of Labor and the Assistant to the Commissioner formulate policy and set goals and procedures for the above-mentioned Mayor's Committee. Now the EDA and its Administrator are involved in such formulation of policy. Principal Adjusters implement already existing policy, but they do not formulate it and have no responsibility therefor. Principal Adjusters may make a recommendation as to policy but the final judgment as to whether such recommended policy is put into effect is not the judgment of the Principal Adjuster but the judgment of some higher authority.

Principal Adjusters, as well as the lower titles, are competitive employees and receive overtime credits. One Principal earns \$10,400 per annum and the other earns a little over \$10,000. All grades of Adjusters applied for the City-administered Management-Welfare Fund and their applications, including those of the Principal Adjusters, were denied by the Department of Personnel because they were not considered to be managerial employees.

Principal Adjusters do not play any role in the hiring, termination, disciplining, transfer or promotion of other City employees. They do not handle grievances nor are they members of any labor-management committee. Principal Adjusters are members of a legislative committee of the Department which reviews legislation pending in Albany and writes reports for the City

administration on pending bills. Such reports are submitted to the Commissioner who decides whether or not to submit them to the Administrator of EDA. We do not consider such duties to be of a managerial nature.

Upon all of the evidence, we find that Principal Labor-Practices Management/Adjusters are not managerial-executive employees.

## II. Supervision

The job specification for Principal Adjusters does not refer to any supervisory duties. The job specification states that Principal Adjusters coordinate the work of the other Adjusters. and confer with them.

The other Adjusters can complete a case without the approval of the Principal Adjuster. The lower grades frequently discuss their cases with each other rather than seeking the advice of a Principal Adjuster. Moreover, they can go directly to the Assistant to the Commissioner for advice without being required to consult a Principal Adjuster. When the other employees discuss a case with a Principal Adjuster, such discussion is on the basis of one expert to another rather than on the basis of supervisor and subordinate.

The Assistant to the Commissioner approves and changes the vacation schedule for Adjusters. If an Adjuster wishes time off against overtime credits or a day or part of a day off for other reasons, he must seek permission from the Assistant to the

Commissioner and not from a Principal Adjuster.

Accordingly, we find and conclude that Principal Labor-  
Practices  
Management/Adjusters are non-supervisory employees.

III. Appropriate Unit and Majority Status

The parties stipulated that, if the Board finds Principal Adjusters not to be managerial-executives,, that title and the titles of Labor-Management Practices Adjuster and Senior Labor-Management Practices Adjuster, certified in Certification No. 63-68 constitute an appropriate bargaining unit.

The parties further agreed to a determination of the majority status of Petitioner by an affidavit of dues-paying membership in Petitioner, executed by the employees involved.

Accordingly, we approve the stipulations of the parties and find that Petitioner has been designated as their collective bargaining representative by all the Principal Labor-Management Practices Adjusters employed by the City of New York. We shall add such title to Certification No. 63-68.

**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

Decision No. 9-69  
Docket No. RU-39-68

6.

O R D E R E D, that Certification No. 63-68 be, and the same hereby is, amended to include the title of Principal Labor-Management Practices Adjuster.

DATED: New York, N. Y.

March 10, 1968

ARVID ANDERSON  
CHAIRMAN

ERIC J. SCHMERTZ  
MEMBER

SAUL WALLEN  
MEMBER