

LOCAL UNION NO 3, IBEW V. CITY, 8 OCB 62 (BOC 1971) [Decision No. 62-71 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL UNION NO. 3, IBEW,
ALF-CIO

DECISION NO. 62-71

-and-

D.2. 37, AFSCME, AFL-CIO

DOCKET NOS.

-and-

LOCAL 246, SEIU, AFL-CIO

RU-124-69
RU-137-69
RU-150-69

-and-

THE CITY OF NEW YORK AND
RELATED PUBLIC EMPLOYERS

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DECISION AND ORDER

D.C. 37, AFSCME, AFL-CIO (herein D.C. 37), moved the Board to reconsider so much of its Decision No. 98-70 (same title as above) as relates to the unit placement of Radio Repair Mechanics (herein RRM). No papers were filed in opposition thereto. In Decision No. 14-71 (same title as above), we granted such motion and directed a hearing on the issue of the appropriate unit.

Such hearing was held before Richard J. Horrigan, Esq., Trial Examiner, on April 7th and 30th, 1971.

Local 246, SEIU, AFL-CIO, initially participated in the hearing but subsequently withdrew, stating that it makes no claim whatsoever to the title of RRM. We find that such withdrawal by Local 246 constitutes, in effect, a disclaimer of interest in this matter.

Upon consideration of the entire record herein, including the briefs of the parties, and upon due deliberation, the Board renders the following decision.

In Matter of Local Union No. 3, IBEW, et al, Decision No. 98-70, we said:

Radio Repair Mechanics install, repair, align and tune radio, radar, television, and other electronic apparatus and equipment. Their duties, skills and interests are closely related to those of employees engaged in other electrical work. We find and conclude, therefore, that establishment of a separate unit of Radio Repair Mechanics would run counter to the Board's policy against fragmentation, and, therefore, is inappropriate.

In that decision, we included Radio Repair Mechanics in a unit of prevailing rate employees and said that Local Union No. 3, IBEW, AFL-CIO (herein Local 3), was the majority representative of such prevailing rate employees. In the certification that subsequently issued, we certified Local 3 for all the titles in the unit, omitting the Radio Repair Mechanics (Decision No. 15-71). Our only reason for not including Radio Repair Mechanics in that certification at that time was because D.C. 37 had made the instant motion for reconsideration of our Decision No. 98-70.

While in Decision No. 98-70, the City opposed a separate unit of RRM, its position in the instant matter is now neutral.

In support of its motion for reconsideration, D.C. 37 argues that RRM hold a Federal Communications Commission license allowing them to work on electronic equipment whereas Electricians do not have an FCC license and work on electrical equipment. It also contends that the titles have different wages and variations in duties, interests and promotional lines.

Local 3 contends that work involving electronics and electricity are so inextricably interwoven that there is no difference between them and that other factors stressed by D.C. 37 offer so little difference that the unit determination made by the Board in Decision No. 98-70 was correct.

In response to D.C. 37's contention, Local 3's testimony showed that an electrician may legally work on a radio without an FCC license, and it is only when it is necessary for a signal to be radiated from a radio that the license becomes involved, in which event an electrician can and does work on a radio provided an RRM accepts responsibility.

The witnesses for Local 3 testified that electricity and electronics are practically the same; that the bulk of the City's electrical work is electronics; that the physical laws pertaining to electricity include electronics; and that parts of the National Electric Code and the NYC Electrical Code relate to electronic matters.

D.C. 37 placed in evidence a City notice of examination for RRM. Under the heading "Tests" in such notice, it is stated that the test will determine the candidate's knowledge of the fundamentals of radio and electrical theory" and his "ability to test and trouble shoot all types of radio and associated electrical equipment * * * ." The witness for D.C. 37 defined electronics as the science of electrons. However, in his testimony he agreed that electricity was caused by the movement of electrons and that electrons are a part of electronics.

In our opinion, the record supports the conclusion that the work of a RRM is, in substantial measure, occupationally allied to the general electrical trades. To the extent that D.C. 37's contention implies that this Board is, nevertheless, bound by a description of the duties in the civil service classification of a title, we point to the fact that this Board's statutory function is to determine units appropriate for bargaining purposes, while classification of employees for civil service purposes is the statutory function of the Civil Service Commission. (Matter of City Employees Union, Local 237, I.B.T., Decision No. 60-69)

In Decision No. 60-69 we stated:

"Combining the titles herein in a single unit on the basis of similar job duties, should not be understood as a conclusion that the jobs are interchangeable or that we have made a determination as to the appropriate job classification for the employees. Job classification is the responsibility of the Civil Service Commission. Our task is to establish appropriate bargaining units of similar or related titles in a manner that will enhance sound labor relations."

The foregoing principle finds support in the case of In the Matter of Erie County Water Authority, et al, 23 S.L.R.B., 151.

We have also considered D. C. 37's contentions that: (1) a separate unit for RRM is warranted by reason of the dissimilarities between RRM and employees in other titles with respect to wages, hours, duties and promotional opportunities; and (2) that fragmentation of the existing unit is not involved because the unit sought is the same as that found appropriate in 1964 by the New York City Labor Department.

This Board has stated In Matter of Local 300, SEIU, Decision No. 12-70 at page 12:

"Bargaining units frequently include numerous titles in one or several related occupational groups despite differences in salary ranges, and variations in duties and promotional lines. Indeed, it has been the consistent and firm policy of this board that consolidation of occupationally related titles in one bargaining unit, wherever possible, is essential to the effectuation of the purposes and policies of the Statute and the proper functioning of the collective bargaining process."

The decision of the Board was upheld in court. (Matter of Penta (Anderson), NYLJ 3/9/71, p. 2., N.Y. Spec. I, Carney, J.)

Furthermore, the authority of this Board to determine bargaining units "differing from those determined by the department of labor" is not limited. (Section 1173-10.0c NYCCBL, and Rule 2.10 Consolidated Rules)

Our decision not to disturb a prior unit determination, absent compelling circumstances, finds precedential support in the private sector in an early case decided by the NLRB, (The Baltimore Transit Company, 92 NLRB 689):

"As a matter of policy, the Board is ordinarily reluctant to disturb a prior unit determination or a contract unit established as a result of collective bargaining, in the absence of compelling circumstances."

By reason of the foregoing, we adhere to our original Decision No. 98-70.

WE find and conclude that RRM are a group of skilled manual employees whose skills are occupationally related to those of the other electrical trades and that the work activities of all employees engaged in the electrical trades are supportive of each other. We also find and conclude that our unit determination in Decision No. 98-70 is correct, and accordingly, we will now amend Certification No. 15-71 by including therein the title of Radio Repair Mechanic.

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

ORDERED, that the motion oi D.C. 37 for reconsideration be, and the same hereby is, granted and upon such reconsideration our original Decision No. 98-70 is adhered to; and, it is further

ORDERED, that Certificate No. 15-71, be, and the same hereby is, amended to include the title of Radio Repair Mechanic.

DATED: New York, N.Y.

September 1 , 1971.

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SCHMERTZ
M e m b e r
