

L.300, SEIU, et. Al v. City, et. Al, 10 OCB 8 (BOC 1972)
[Decision No. 8-72 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

CIVIL SERVICE FORUM
LOCAL 300, SEIU, AFL-CIO

DECISION NO. 8-72

-and-

DISTRICT COUNCIL 37,
AFSCME, AFL-CIO

DOCKET NOS. RU-173-70
RU-228-70
RU-229-70
RU-262-71

-and-

CITY INSPECTORS GUILD

-and-

THE CITY OF NEW YORK AND
RELATED PUBLIC EMPLOYERS

(Principal Consumer
Affairs Inspector)

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DECISION AND ORDER MODIFYING
DIRECTION OF ELECTION

By motion dated December 10, 1971, the City requested this Board to reconsider its decision "to the extent that it holds the title Principal Consumer Affairs Inspector is not managerial" (see Board Decision No. 70-71). None of the parties to this proceeding has objected to the City's motion.

It is the City's contention that the record supports a finding and conclusion that the single employee in the title of Principal Consumer Affairs Inspector (Greenspan) employed in the Department of Consumer Affairs is a managerial employee. In support of its contention, the City cites and refers to various portions of the testimony in the record.

We have reviewed the record and find that the record supports a finding that the Principal Consumer Affairs Inspector is a managerial employee.

An analysis of the testimony credited by the Trial Examiner concerning the managerial status of Mr. Greenspan, discloses that proposals made by him to the Director of Field Operations or to the Executive Assistant to the Commissioner are invariably accepted; that Mr. Greenspan represents the department in talks with the National Bureau of Standards, and also represents the department at national conferences of weights and measures; that the Commissioner and top staff consult with Mr. Greenspan directed the administration of a training program for the new department's inspectional employees, and developed the curriculum for this training course; that Mr. Greenspan serves as the department's chief training officer, and had a very important part in the preparation of the first draft of the department's administrative manual; and that he was given the responsibility "and also the power" to consult directly with Budget and other departments involving the capital budgeted, specifically with respect to the construction and outfitting of a central testing laboratory expected to cost \$722,500; and that he had initially recommended the construction of such laboratory. The testimony also established that Mr. Greenspan participated in the site selection of a testing station, working with the First Deputy Commissioner to accomplish this objective, and dealt directly with the Executive Assistant to the Commissioner and Commissioner Myerson.

A significant portion of Mr. Greenspan's actual duties and activities are not precisely within the examples

of typical tasks set forth in his job description. Thus the record established his orientation toward management interests and his importance to the department as a managerial employee.

Having found that the title of Principal Consumer Affairs Inspector in the Department of Consumer Affairs as performed by the incumbent employee is managerial, it is our conclusion that he be excluded from the supervisory unit heretofore found appropriate. Therefore, our Certification of Representative heretofore issued under Decision No. 81-71 will be modified by the order entered below.

O R D E R

IT IS HEREBY

ORDERED, that the Certificate of Representative heretofore issued under Decision No. 81-71 be, and the same hereby is, modified by deleting from the unit description therein the title of Principal Consumer Affairs Inspector and by amending said Certificate of Representative as follows:

"IT IS HEREBY

"CERTIFIED, that Civil Service Forum, Local 300, SEIU, AFL-CIO, is the exclusive representative for the purposes of collective bargaining of all Supervising Consumer Affairs Inspectors, Supervising Inspectors of

Ports and Terminals, Principal Inspectors of Ports and Terminals, and employees in restored Rule X titles who are serving in positions equated thereto, employed by the City of New York and related public employers subject to the jurisdiction of the Board of Certification, and subject to existing contracts, if any," and it is further

ORDERED, that except as so modified, the Certificate of Representative heretofore issued under Decision No. 81-71 shall, in all respects, remain the same.

DATED: New York, N.Y.
March 15, 1972

ARVID ANDERSON
CHAIRMAN

WALTER L. EISENBERG
MEMBER

ERIC J. SCHMERTZ
MEMBER