

City Employees Union, Local 237, 6 OCB 13 (BOC 1970) [Decision No. 13-70], aff'd, Randolph v. Office of Collective Bargaining, N.Y.L.J., May 7, 1970 (Sup. Ct. N.Y. Co.).

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

CITY EMPLOYEES UNION, LOCAL 237, DECISION NO. 13-70
I.B.T.

-and-

DETECTIVE INVESTIGATORS DOCKET NOS. RU-80-68
BENEVOLENT ASSOCIATION RU-82-68

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

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A P P E A R A N C E S :

GROSSMAN, WALECK & CARTAFALSA, ESQ\$.

By: MORRIS WALECK, Esq.

For City Employees Union, Local 237, I.B.T.

ALBERT BRACKLEY, ESO.

For Detective investigators Benevolent Assn.

PHILIP J. RUFFO, ESQ.

By: GERALD SCHILIAN, ESQ.

For Office of Labor Relations

DECISION, ORDER AND FURTHER DIRECTION OF ELECTION

Pursuant to the Decision and Direction of Elections issued herein on October 23, 1969 (Decision No. 60-69), the Board, on December 16, 1969, conducted elections among certain employees of the District Attorney's Offices to determine (1) whether the supervisory employees involved desired to constitute a separate bargaining unit, and (2) whether or not they and the non-supervisory employees desire to be represented for the purposes of collective bargaining by Detective Investigators Benevolent Association; or by City Employees Union, Local 237, I.B.T.; or by neither.

On December 16, 1969, the Board issued its Report Upon Secret Ballot which showed that of one hundred eligible employees, eighty-seven voted; forty-three ballots were cast in favor of representation by Detective Investigators Benevolent Association; forty-one ballots were cast in favor of representation by City Employees Union, Local 237, I.B.T.; and three ballots were challenged.

On January 8, 1970, City Employees Union, Local 237, I.B.T., filed objections to the election and on January 27, 1970, Detective Investigators Benevolent Association filed an answer thereto.

A hearing was duly held on February 5th and 6th, 1970, before Richard J. Horrigan, Esquire, Trial Examiner, to determine the merits of the objections to the election and the validity of the challenged ballots .

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

Because of the decision reached herein, we do not pass on the validity of the challenges to the ballots for the merits of Objections numbered 1 to 5.

The substance of Objection No. 6 is that City Employees Union, Local 237, I.B.T., was not advised prior to the election that absentee ballots were permitted. There is no question but that such statement is factually true.

By inadvertence neither the parties herein nor the employees eligible to vote were advised that it is the policy of the Board to issue absentee ballots upon timely request and good cause shown. Nevertheless, two absentee ballots were issued to eligible voters in this election at the request of the Kings County District Attorney. We need not speculate whether or not the parties or some eligibles who did not vote in the election would have requested absentee ballots. The failure to advise the parties and the eligible employees of the Board's policy may have resulted in depriving some eligible employees of the opportunity to apply for and cast absentee ballots.

Under all the circumstances, and in view of the closeness of the vote, we shall sustain Objection No. 6 insofar as it relates to the election to determine the representation of the employees for purposes of collective bargaining.

The self-determination election conducted among the supervisory employees, however, is not subject to the same infirmity. Twelve of the thirteen supervisors voted therein and the result could not be affected by any ballot which might have been cast by the other supervisor.

The supervisory employees having voted against a separate bargaining unit, we find that a single unit consisting of both the supervisory and non-supervisory employees is appropriate for purposes of collective bargaining. We shall direct a new election in that unit.

O R D E R

and

FURTHER DIRECTION OF ELECTION

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

O R D E R E D , that Objection No. 6, be, and the same hereby is, sustained in part; and it is further

O R D E R E D , that the election conducted herein on December 16, 1969, insofar as it related to the selection of a collective bargaining representative, be, and the same hereby is, vacated and set aside; and it is

D I R E C T E D , that an election by secret ballot shall be conducted under the supervision of the Board of Certification or its agents, at a time, place and during hours to be fixed by the Board, to determine whether Detective Investigators, Rackets Investigators, County Detectives, Senior Detective Investigators, Senior Rackets Investigators, Supervising Rackets Investigators and Chief County Detectives employed by the City of New York and related public employers under the jurisdiction of the Office of Collective Bargaining, who were employed during the payroll period immediately preceding the date of this Further Direction of Election (other than those who have voluntarily quit or who have been discharged for cause before the date of the election) desire to be represented

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for the purposes of collective bargaining by Detective Investigators
Benevolent Association; by City Employees Union, Local 237, I.B.T.;
or by neither.

DATED: New York, N.Y.
March 23, 1970.

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