



**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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LABORERS' INTERNATIONAL UNION	:	
OF NORTH AMERICA	:	
	:	
Petitioner	:	
	:	
v.	:	CASE NO. M-0750
	:	
HILLSBOROUGH COUNTY NURSING	:	DECISION NO. 1998-050
HOME	:	
	:	
Respondent	:	

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APPEARANCES

Representing Laborers' International Union of North America:

Douglas T. Watson, International Representative

Representing Hillsborough County Nursing Home:

Carolyn Kirby, Esq.

Also appearing:

Emily Mercier, Hillsborough County

BACKGROUND

On February 23, 1998, Laborers' International Union of North America filed a petition to certify a bargaining unit for fifteen head nurses and certain other non-exempt employees. On March 10, 1998, the Hillsborough County Nursing Home filed its exceptions alleging errors in the petition as to number and titles of positions. A hearing was held before the undersigned Hearing

Officer on May 18, 1998. The record of the hearing was held open for the submission of evidence subsequently received on May 28, 1998.

FINDINGS OF FACT

1. Hillsborough County (County) employs personnel in the operation of the Hillsborough County Nursing Home and so is a "public employer" within the meaning of RSA 273-A:1 X.
2. Laborers' International Union of North American (Union) seeks to become the exclusive bargaining representative for a fifteen member bargaining unit to include eleven head nurses and four middle management and/or professional positions.
3. The Union submitted a seniority list that it relied upon for job titles when drawing up the petition for certification. (Union Exhibit No. 1.)
4. Emily Mercier, the Administrator of Hillsborough County Nursing Home, averred that only seven head nurses are employed to cover seven shifts and that the job titles in the seniority list (Union Exhibit No. 1) were not descriptive of the positions at the facility but were supplied with a packaged software program used only to calculate seniority. The positions of Assistant Maintenance Supervisor and Assistant Director of Housekeeping do not exist at Hillsborough County Nursing Home.
5. The job descriptions for the positions of Staff Development Coordinator, 3-11 Supervisor and 11-7 Supervisor were received from the County after the hearing at the request of the Hearing Officer.
6. A schedule of salary and wages for fiscal years 1998 and 1999 was submitted by the County. It supports Ms. Mercier's testimony that there are seven Head Nurses positions, two unclassified Staff Develop Coordinators and two Supervisors employed at the Nursing Home. (County Exhibit No. 1.)

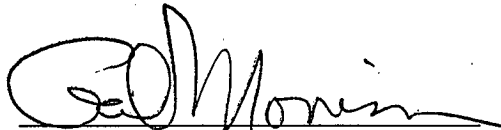
DECISION AND ORDER

RSA 273-A places authority to certify bargaining units with the Public Employee Labor Relations Board. In no case shall a bargaining unit of less than ten public employees with the same community of interest be certified. RSA 273-A:8 I (d).

The sole witness at the hearing was Emily Mercier, the Administrator of the County Home. Her testimony regarding the potential bargaining unit positions, including the number of non-exempt employees and the number of head nurses, is unrefuted. The testimony and documentary evidence in consideration requires denial of this petition. Considering the errors, the petition describes a bargaining unit of fewer than ten employees with the same community of interest. Therefore, this petition for certification is denied. As discussed at the hearing, an amended petition would have been accepted prior to the hearing. Conversely, there is no barrier to the submission of a new petition more accurately describing the requested unit now that the decision is issued.

So ordered.

Signed this 4th day of June, 1998.



GAIL C. MORRISON  
Hearing Officer