



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

and

TOWN OF HOOKSETT, NEW HAMPSHIRE,
PUBLIC WORKS DEPARTMENT

Respondent

CASE NO. A-0500

DECISION NO. 84-28

APPEARANCES

Representing the American Federation of State, County & Municipal Employees:

James C. Anderson, Executive Director, AFSCME, Council 68.
Maurice Duhaime, Foreman/Driver, Town of Hooksett

Representing the Town of Hooksett:

Sandra Quitron, Executive Secretary to Board of Selectmen

BACKGROUND

The American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) on February 21, 1984 filed a petition for certification for a proposed unit in the Public Works Department of the Town of Hooksett, (Town), composed of the foreman/driver, heavy equipment operators, mechanic/driver, driver/operators and laborers. In compliance with RSA 273-A:10, 1(a), the required number of employees in the proposed unit submitted individual signature cards indicating their desire to be represented by AFSCME for the purpose of collective bargaining.

The Town objected to the petition on the basis that the foreman/driver exercised supervisory authority involving the significant exercise of discretion and should be excluded; and, by his exclusion, the unit would be made up of but nine (9) employees and, therefore, would not be in compliance with the statute, 273-A:8, 1(d) which states:

"In no case shall the board certify a bargaining unit of less than 10 employees with the same community of interest."

A unit determination hearing was held at the PELRB office on April 5, 1984 and oral testimony was presented by all parties of interest.

FINDINGS OF FACT

1. Evidence was presented that the foreman/driver did perform the same duties as other employees in the Department.
2. All assignments were made by the Road Agent who is on site the majority of the time. If away from the area for other business, the foreman is not notified of his absence. On some occasions when the road agent has been out of town, someone other than the foreman/driver has been placed in charge.
3. The foreman/driver has never been involved in budget preparations or in disciplinary actions. All problems are reported directly to the Road Agent.
4. Although a requirement that the foreman/driver know how to run all equipment, his hourly rate of pay is less than that of the equipment operators.
5. The foreman/driver has no discretionary authority to discipline, hire, or fire, any employee.

DECISION AND ORDER

After review of the testimony presented, PELRB rules, as follows:

- A. A unit is hereby created composed of the driver/foreman, heavy equipment operators, mechanic/driver, driver/operators and laborers.
- B. Excluded from the unit, as agreed, the road agent.
- C. Election to determine whether the employees wish to be represented by AFSCME to be held by PELRB as expeditiously as possible.



Robert E. Craig, Chairman
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 12th day of April, 1984.

By unanimous vote. Chairman Robert E. Craig presiding. Members Osman, Verney and Roulx present and voting. Also present, Executive Director, Evelyn C. LeBrun.