

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

International Association of Machinists and)	
Aerospace Workers, District 8,)	
)	
Petitioner)	
)	
and)	Case No. S-RC-12-109
)	
State of Illinois, Department of Central)	
Management Services (Human Services),)	
)	
Employer)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On August 18, 2010, the International Association of Machinists and Aerospace Workers, District 8 (Petitioner), filed a majority interest petition with the State Panel of the Illinois Labor Relations Board (Board), pursuant to the Illinois Public Labor Relations Act 5 ILCS 315 (2010), as amended (Act), seeking to represent approximately 72 Public Service Administrators, Option 6 acting as Local Office Administrators in the State of Illinois Department of Human Services. The Employer objects to the petition arguing that these employees are supervisory, confidential and/or managerial and have been previously excluded from collective bargaining by the Board in Case Nos. S-UC-09-182 and S-UC-10-014.¹ Within these two cases, the American Federation of State, County and Municipal Employees, Council 31, had unsuccessfully petitioned for the same employees the Petitioner currently seeks to include in its bargaining unit. On August 16, 2012 the undersigned required the Petitioner to show by August 30, 2012, why it is not bound by those

¹ The petitioned-for employees were also excluded from the RC-62 & RC-63 bargaining unit in a corrected certification of unit clarification to abolish the RC-150 bargaining unit in Case No. S-UC-(S)-12-008.

earlier Board decisions or address some change in circumstances or job duties that would warrant a hearing in this matter. To date the Petitioner has not responded.

I. BACKGROUND

On July 15, 2009, American Federation of State, County and Municipal Employees, Council 31 (AFSCME), filed a unit clarification petition in Case No. S-UC-10-014 with the Board seeking to include approximately 16 Human Casework Managers acting as Local Office Administrators employed by the State of Illinois, Department of Central Management Services in the RC-62 bargaining unit. A hearing was conducted and the Board adopted the Administrative Law Judge's finding that the Local Office Administrators were supervisors excluding them from the RC-62 bargaining unit.

On or about March 22, 2010, AFSCME filed a unit clarification petition in Case No. S-UC-09-182 with the Board seeking to add employees in the title of Public Service Administrator Option 6, in the State of Illinois to its existing bargaining unit RC-150. Approximately 68 of those disputed employees work within the Department of Human Services, 64 of whom have the working title of Local Office Administrator in the State's various Family Resource Centers, which fall administratively within the Department of Human Services' Division of Human and Capital Development, Office of Family Community Resource, and Department of Central Management Services. A hearing was conducted and Administrative Law Judge John L. Clifford found one employee should be added to the bargaining unit and the other 68 employees to be excluded as managerial, supervisory and/or confidential employees within the meaning of the Act. The Board affirmed the Administrative Law Judge's findings.

The petition filed in this case seeks to represent approximately 72 Local Office Administrators who were previously excluded from the bargaining unit in the above-referenced

matters. The Employer objects again to this petition arguing that this case should be dismissed because the Local Office Administrators were previously excluded and their duties and responsibilities have not changed since the Board's decisions in the earlier cases, such that they should be included in any collective bargaining unit.

II. DISCUSSION

The Board has found that the majority interest representation process established by Section 9(a-5) of the Act, and its implementing regulations does not guarantee an employer a right to a hearing, but requires that a party challenging certification of a representative must "first demonstrate that a bona fide question of law or fact exists." The Illinois Appellate Court has now twice approved this process. AFSCME, Council 31 and State of Illinois, Central Management Services, 26 PERI ¶ 58, (IL LRB-SP 2010) citing City of Chicago v. Ill. Labor Relations Bd., Local Panel, 396 Ill. App. 3d 61, 71-72 (1st Dist. 2009); Ill. Council of Police v. Ill. Labor Relations Bd., Local Panel, 387 Ill. App. 3d 641, 659 (1st Dist. 2008).

Section 1210.100(b)(7)(A) of the Act provides that an Administrative Law Judge can dismiss a petition when the employees are not covered by the Act or for any other reason there is no reasonable cause to believe that a question of representation exists. No hearing is required where a party seeking that exclusion fails to raise an issue of fact or law. City of Chicago v. Illinois Labor Relations Board, 396 Ill. App. 3d 61, 71-72 (1st Dist. 2009) (insufficient evidence to warrant hearing on employer's objections that supervisory or managerial); AFSCME, Council 31 and State of Illinois, Dep't of Cent. Mgmt. Services (Dep't of Public Health and Pollution Control Board), 26 PERI ¶ 113 (IL LRB-SP 2010) (inadequate evidence to necessitate hearing on employer's objections that supervisory and managerial employees). The same is true where, as here, the petitioner fails to raise an issue of fact or law.

After considering the evidence, I find that there were no issues of fact or law found to exist at the investigative step to warrant further review at a hearing. The Petitioner was specifically required to address any changes in the petitioned-for employee's job duties or why it is not bound by the decisions in the earlier cases regarding the same petitioners. The Petitioner was aware that its response should have addressed any reasons why this petition should not be dismissed. The Petitioner's failure to respond warrants dismissal in this case.

In the two cases preceding this petition, all parties were given an opportunity to participate, adduce relevant evidence, examine witnesses, argue orally and file written briefs in support of their arguments as to the status of the petitioned-for employees in this case. After full consideration of the parties' stipulations, evidence, and arguments, and upon the entire record of the cases, the Board adopted the Administrative Law Judge's decision that the petitioned-for employees at issue be excluded from the bargaining unit as supervisory, confidential and/or managerial employees. The Petitioner presented no evidence that would warrant a rehearing regarding the same employees.

III. CONCLUSIONS OF LAW

I grant the Employer's motion to dismiss this petition on the basis that the Petitioner has not presented sufficient evidence to warrant a hearing in this matter.

IV. RECOMMENDED ORDER

It is hereby recommended that the Local Office Administrators in the Department of Human Services are supervisory, confidential and/or managerial consistent with the findings in Case Nos. S-UC-08-182, S-UC-10-014 & S-UC-(S)-12-008 within the meaning of Sections 3(r), 3(c) and 3(j) of the Act, and should therefore be excluded from the petitioned-for bargaining unit.

V. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of the Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross-responses must be filed with the Board's General Counsel at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. The exceptions and cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions have been provided to them. The exceptions and cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 26th day of September 2012.

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Elaine L. Tarver
Administrative Law Judge