

Board's Nisi Order of Certification excluding his position from the bargaining unit as a managerial employee. In dismissing the police chief's exceptions, the Board cited East Allegheny School District, 10 PPER ¶ 10023 (Final Order, 1979) for the proposition that an individual employee does not have standing to intervene in unit clarification proceedings because the only appropriate parties to a unit clarification petition are the employer and the exclusive bargaining representative. See also County of Berks, 11 PPER ¶ 11297 (Final Order, 1980); Lackawanna County Housing Authority, 20 PPER ¶ 20067 (Final Order, 1989); Commonwealth of Pennsylvania, supra; Allegheny County, 37 PPER 58 (Final Order, 2006). In Aleppo Township, the Board also relied on the decision of the Pennsylvania Supreme Court in Official Court Reporters of the Court of Common Pleas of Philadelphia County v. PLRB, 502 Pa. 518, 467 A.2d 311 (1983), in which the Court held that individual employees lack standing to litigate their inclusion or exclusion from a bargaining unit. In that case, the Supreme Court stated as follows:

The process of selecting the exclusive representative of a group of employees is itself a representative process. Consequently, individuals or small groups of employees which have not met the requirements for intervention cannot litigate the appropriateness of the bargaining unit or their individual status concerning inclusion or exclusion from the bargaining unit. That requirement is consistent with the concept of collective bargaining as a representative process which eliminates the individual employee's right to represent himself in the bargaining process.

Id. at 535-536, 467 A.2d at 320. Accordingly, the Hearing Examiner did not err in denying Chief DeNaples' Motion to Intervene and excluding him from participating in the proceedings before the Board.

As the Board stated in Commonwealth of Pennsylvania:

[T]his result is consistent with a variety of cases decided by our courts involving the standing of individual employees in the context of a collective bargaining relationship. For example, in Maggs v. PLRB, 50 Pa. Commonwealth Ct. 549, 413 A.2d 453 (1980), the Commonwealth Court affirmed a Board final order denying an individual employee standing to file an unfair labor practice charge alleging that the employer had failed to process a grievance to arbitration. The Commonwealth Court agreed with the Board that only the exclusive representative had standing to process such a charge. Similarly, in McClusky v. Department of Transportation, 37 Pa. Commonwealth Ct. 598, 391 A.2d 45 (1978), the Commonwealth Court, citing Vaca v. Sipes, 386 U.S. 171, 87 S. Ct. 903 (1967), concluded that an individual employee had no standing to appeal a grievance arbitration award. Accord, Gardocki v. Department of Transportation, 42 Pa. Commonwealth Ct. 579, 401 A.2d 410 (1979); McGrath v. Municipality of Penn Hills, 64 Pa. Commonwealth Ct. 477, 440 A.2d 1279 (1982); Krenzelak v. Canon-McMillan School District, 129 Pa. Commonwealth Ct. 490, 566 A.2d 346 (1989), *pet. for allowance of appeal denied*, 577 A.2d 892 (1990); see also Chamblis v. PLRB, 17 PPER ¶ 17204 (Court of Common Pleas of Philadelphia County, 1986)(individual employee lacks standing to enforce grievance arbitration award through unfair labor practice charge); Roderick v. PLRB, 86 Pa. Commonwealth Ct. 278, 484 A.2d 841 (1985)(individual employee lacked standing to force implementation of advisory arbitration award); PLRB v. Eastern Lancaster County Education Association, 58 Pa. Commonwealth Ct. 78, 427 A.2d 305 (1981), *pet. for allowance of appeal denied*, March 26, 1982, at No. 199 E.D. Misc. Dkt. 1981, *cert. denied sub nom. Schreffler v. PLRB*, 459 U.S. 838 (1982)(limitations upon individual employee rights justified by compelling state interest in the orderly resolution of labor disputes).

26 PPER at 318.

Further, the exceptions must be dismissed because Chief DeNaples has no standing to file exceptions as a result of his not being a party to the proceedings. Section 93.1 of the Board's Rules and Regulations defines "party" as follows:

The employer, person or organization filing a charge or petition, or otherwise named in a charge or petition; another person or organization designated in the notice of hearing and served therewith; and another person or organization whose intervention has been permitted by the Board or trial examiner, except as limited by the Board or trial examiner in granting the permission.

34 Pa. Code § 93.1. Because Chief DeNaples does not fall within any of the above-listed categories, he is not a party to the unit clarification proceeding and has no standing to file exceptions to the Hearing Examiner's Proposed Order of Unit Clarification. Therefore, the exceptions filed by Chief DeNaples must be dismissed.

After a thorough review of the exceptions, the response thereto and all matters of record, the Board shall dismiss the exceptions and affirm the Proposed Order of Unit Clarification.

ORDER

In view of the foregoing and in order to effectuate the policies of the Pennsylvania Labor Relations Act and Act 111, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by Christopher DeNaples are dismissed and the May 2, 2012 Proposed Order of Unit Clarification be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, James M. Darby, Member, and Robert H. Shoop, Jr., Member, this seventeenth day of July, 2012. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.