

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
:  
: Case No. PF-R-23-59-E  
:  
LOWER SWATARA TOWNSHIP :

**FINAL ORDER**

A Petition for Representation was filed with the Pennsylvania Labor Relations Board (Board) on July 10, 2023, by the Lower Swatara Police Officers Association (Petitioner) seeking to represent a bargaining unit of police officers employed by Lower Swatara Township (Employer). The Petitioner further requested that a hearing be scheduled and an Order be issued for an election to determine the exclusive representative for collective bargaining pursuant to the provisions of Section 7(c) of the Pennsylvania Labor Relations Act (PLRA) and Act 111 of 1968. The Petition also alleged that the employees in the petitioned-for unit are currently represented by Teamsters Local Union No. 776 (Incumbent Union) and that the collective bargaining agreement covering said employees expires on December 31, 2023. The Petition was accompanied by a showing of interest that consisted of copies of authorization cards.

On August 2, 2023, the Secretary of the Board declined to direct a hearing on the Petition because the Petition was not accompanied by an original showing of interest as required by the Board's Rules and Regulations. 34 Pa. Code §§ 95.1 and 95.14(8). The Secretary further noted that the Petition was not filed in the appropriate window-period 30-60 days prior to the time bargaining must commence under Act 111 for a successor agreement, citing to O'Hara Township, 9 PPER ¶ 9073 (Order Fixing Time and Place of Election, 1978), 10 PPER ¶ 10313 (Final Order, 1979), aff'd, 14 PPER ¶ 14107 (Court of Common Pleas, 1983). On August 21, 2023, the Petitioner filed timely exceptions and a supporting brief challenging the Secretary's dismissal of the Petition for Representation.

On exceptions, the Petitioner argues that the Secretary erred in dismissing the Petition for failure to provide an original signed and dated showing of interest because the language of the PLRB-13 petition form does not indicate that an "original" showing of interest must be attached, only that the showing of interest be signed and dated. The Petitioner further argues that Section 95.14 of the Board's Rules and Regulations concerning the contents of an election request does not state that an "original" showing of interest is required.

Section 95.1 of the Board's Rules and Regulations provides that a showing of interest "shall consist of written authorization cards or petitions, signed by employees and dated..." 34 Pa. Code § 95.1. The Board's interpretation of its promulgated Regulations, to require original signed authorization cards or petitions, is designed to further the purposes and policies of the PLRA of ascertaining the employees' desires for a representation election. In that respect, the Board's longstanding policy requires that a showing of interest must

contain original signatures and not merely copies of signatures. Bucks County, 27 PPER ¶ 27027 (Final Order, 1995); Neshannock Township School District, 17 PPER ¶ 17153 (Final Order, 1986). Here, the Petitioner's showing of interest only contained copies of the signatures of the employes. Therefore, the Secretary did not err in dismissing the Petition because it did not include an originally signed showing of interest.

The Petitioner further asserts that the Petition was filed within the appropriate window-period 30-60 days prior to the time bargaining must commence for a successor agreement. The Petitioner's reliance on Somerset Borough, 41 PPER 61 at 210 (Order, 2010), to support its assertion that the Petition was timely filed is misplaced. The language quoted by the Petitioner concerns the timeframe for when collective bargaining should commence in order for a timely request for interest arbitration to be made by the employe representative. However, the Board's 30-60-day window-period set forth in O'Hara Township for representation petitions is designed to accommodate an election in time for the prevailing union to meet the bargaining timetable under Act 111 and, therefore, must of necessity require the filing of a representation petition 30-60 days prior to the commencement of bargaining.

In O'Hara Township, the Board created a window-period for the filing of petitions under the PLRA and Act 111, holding that such representation petitions must be filed with the Board not sooner than sixty days, and not later than thirty days, prior to the date when collective bargaining is required to commence. Section 3 of Act 111 provides that collective bargaining "shall begin at least six months before the start of the fiscal year of the political subdivision..." 43 P.S. § 217.3. Under the requirements of O'Hara Township, it was necessary for the Petitioner to file the Petition between May 2, 2023, and June 1, 2023, i.e., 30-60 days prior to the date bargaining should commence on July 1, 2023. The Association's Petition was filed on July 10, 2023. Accordingly, the Petition was not filed within the 30-60-day window-period and is untimely.

The Petitioner additionally alleges that, even if the Petition was not filed within the window-period, the uncontested Petition, with alleged support from the Incumbent Union and the Employer, waives any objection to timeliness articulated in O'Hara Township and does not diverge from the principle of labor stability espoused in Act 111. However, the Petition did not include any letter or statement from the Employer indicating its support of the Petition, nor was the Petition filed jointly by the Petitioner and Employer.

More importantly, the alleged disclaimer of interest from the Incumbent Union attached to the Petition is not sufficient to establish the Incumbent Union's intent to disclaim interest from representing the police officers. What was attached is an email to the Petitioner allegedly from the Incumbent Union merely stating that the Incumbent Union "does not object" to the Petitioner's request to send an email or a letter to the Board disclaiming interest in the petitioned-for unit. However, no such letter directly from the Incumbent Union to the Board was filed wherein the Incumbent Union expressly disclaimed interest in representing the employes, as is required by the Board's Rules and Regulation. 34 Pa. Code § 95.15. Therefore, the Secretary properly

determined that the Petition for Representation was not timely nor properly filed.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the Petitioner's exceptions and affirm the Secretary's decision not to direct a hearing on the Representation Petition.

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 Lower Swatara Police Officers Association are hereby dismissed, and the August 2, 2023 decision of the Secretary declining to direct a hearing on the Petition for Representation 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, James M. Darby, Chairman, Albert Mezzaroba, Member, and Gary Masino, Member, this nineteenth day of December, 2023. 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.