

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
 :
 : Case No. PERA-R-15-157-W
 :
 :
 ADAMS TOWNSHIP :

ORDER DIRECTING SUBMISSION OF ELIGIBILITY LIST

On June 5, 2015, the International Brotherhood of Teamsters, Local 538 (Union) filed with the Pennsylvania Labor Relations Board (Board) a petition for representation, pursuant to the Public Employee Relations Act (PERA), alleging that thirty percent or more of the blue-collar nonprofessional maintenance and public works department employes of Adams Township (Township) wish to be exclusively represented by the Union. On July 1, 2015, the Secretary of the Board issued an Order and Notice of Hearing (ONH) directing that a hearing be held on Friday, September 4, 2015. After two continuances, the hearing was held on October 20, 2015. During the hearing on that date, both parties were afforded a full and fair opportunity to present evidence and cross-examine witnesses. At the close of the hearing, the parties elected to present oral argument in lieu of filing post-hearing briefs. The Board received the notes of testimony from the hearing on November 12, 2015.

The hearing examiner, on the basis of the evidence presented at the hearing and from all other matters of record, makes the following:

FINDINGS OF FACT

1. The Township is a public employer within the meaning of Section 301(1) of PERA. (N.T. 6)
2. The Union is an employe organization within the meaning of Section 301(3) of PERA. (N.T. 6)
3. There are eight full-time employes at the public works department who maintain Township buildings, parks, roads, pipes and public safety. The full-timers are on call 24/7 for snow removal. (N.T. 14)
4. The parties stipulated and agreed that the eight full-timers share an identifiable community of interest. (N.T. 41)
5. There are four part-time employes at the Township. Public works department foreman, John Hock, calls the part-timers to work when it snows "bad enough" to require extra help. If it does not snow enough during a given winter, none of the part-timers would be called in to help with snow removal. (N.T. 15-16)
6. The four part-timers have no other duties at the Township other than snow removal. The full-timers have many other Township duties throughout the year. (N.T. 14-16, 46)
7. Three part-timers have other full-time jobs. One part-timer is retired and one is self-employed. Part-timers only work for the Township to help with snow removal when they want to and when it does not interfere with their full-time employment. (N.T. 18-21)
8. There are no repercussions if a part-timer fails or refuses to respond to a call from the Township to help with snow removal. Part-timers do not always respond and work. They arrive whenever they get there, and they leave early before the snow removal is complete. (N.T. 18-19, 65)

9. Full-timers must respond to a call for snow removal, and they must remain for the entire time for snow removal. (N.T. 19)

10. One of the part-timers works for a water department full time. Whether he responds to a call for snow removal at the Township depends on which shift he is working at the water department. (N.T. 20)

11. One of the part-timers owns a flower shop, and he can only work snow removal if he is not at his flower shop or filling an order for flowers. (N.T. 20-21, 68)

12. Another part-timer works full time for Township Supervisor Vogel's private Company, Vogel Disposal. (N.T. 20-21, 42-43)

13. Another part-timer is retired and usually helps out with snow removal by driving a one-ton pick-up truck. (N.T. 20)

14. None of the part-timers are called to work during any other season. They are utilized for snow removal only, and they do not have regular schedules. They only work for the Township when they are called in for snow removal. (N.T. 21)

15. The parties stipulated and agreed that all four part-timers worked snow removal for the Township and earned wages from the Township during each winter from 2010 through 2014 inclusively. (N.T. 30, 37)

16. Part-timers are not responsible for checking or cleaning their truck when they return to the Township garage after snow removal duties because they may have to report to their full-time jobs. (N.T. 36)

17. Full-timers have designated snow plowing routes. The part-timers do not. Part-timers have the smaller trucks and are assigned to smaller streets. (N.T. 38-39)

DISCUSSION

The issue in this case is whether the four part-timers are regular part-time employees eligible to vote in an election or only casual employees not eligible to vote. Employees are regular part time when they work on a recurring basis with a reasonable expectation of continued employment. **In the Matter of the Employees of Independence Township**, 27 PPER ¶27108 (ODSEL, 1996). Part-time employees who work with no reasonable expectation of continued employment are excluded from bargaining units as casual employees. **Id.**

The part-timers in this case are never scheduled to work, and they never perform any other duties for the Township except for snow removal. In this regard, the part-timers are only called in for snow removal when it snows "bad enough" to require extra help with snow removal. Indeed, unlike the full-time Township employees, none of the part-timers have any obligation to report for snow removal duties if or when called. Moreover, they have no obligation to remain until snow removal is complete, and there are no repercussions for failing or refusing to report when called. Although the four part-timers have worked every winter between 2010 and 2014, if it does not snow this year, they will not work at all. They are not regularly scheduled; they do not know if or when they will be called and therefore cannot expect to be called; they do not know if they will respond to the call if or when called. They simply do not work on a recurring basis nor do they have a reasonable expectation of continued employment. **Id.**

Accordingly, the four part-timers are casual employees, not regular part-time employees, and are ineligible to vote in the election.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The Township is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employe organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties.
4. The employes in the proposed bargaining unit of blue-collar, nonprofessional public works department employes at the Township share an identifiable community of interest.
5. The four part-time employes are casual employes, not regular part-time employes, and are ineligible to vote in an election.
6. The unit appropriate for the purpose of collective bargaining is a subdivision of the employer unit comprised of all full-time and regular part-time blue-collar, non-professional public works employes of Adams Township, Pennsylvania and excluding management level employes, first-level supervisors, confidential employes and guards as defined in the Act.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the Township shall within ten days of the date hereof submit to the Board and the other parties an alphabetized list of the **names and addresses** of the employes eligible for inclusion in the unit set forth above, excluding the names of the four casual, snow-removal employes.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that any exceptions to this order may be filed to the order of the Board's Representative to be issued pursuant to 34 Pa. Code § 95.96(b) following the conduct of an election.

SIGNED, DATED and MAILED at Harrisburg, Pennsylvania, this eighteenth day of November, 2015.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO, Hearing Examiner