

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of :

Licensed Practical Nurses Association
226 Rhode Island Avenue, N.W.
Washington, D.C. 20001,

Petitioner,

and

District of Columbia Department
of Human Services
D.C. Village
#2 Village Lane, S.W.
Washington, D.C. 20032,

Agency,

and

American Federation of State,
County and Municipal Employees
District Council 20, Local 2092
1025 Vermont Avenue, N.W.
Washington, D.C. 20037,

Intervenor.

PERB Case No. 81-R-04

Opinion No. 36

DECISION AND ORDER

On May 19, 1981, the Licensed Practical Nurses Association (LPNA) filed a Recognition Petition with the District of Columbia Public Employee Relations Board (Board) seeking to represent all licensed practical nurses (LPN's) at D.C. Village. The LPN's are currently represented by Local 2092, District Council 20, American Federation of State, County and Municipal Employees (AFSCME). The Petition was properly accompanied by a showing of interest exceeding the percentage required by Board Rule 101.7.

The Board prepared Notices of the Recognition Petition for posting at all employee work sites on May 29, 1981. The Office of Labor Relations and Collective Bargaining (OLRCB) notified the Board on June 12, 1981 that, pursuant to Board Rule 101.5, the Notices were properly posted.

On May 27, 1981, AFSCME filed its Request to Intervene and Motion to Dismiss. AFSCME sought dismissal for the following reasons:

1. The Petitioner seeks recognition in a bargaining unit different than the one currently recognized as appropriate, which is prohibited by Section 1711 (b) of the CMPA.
2. The Petition is untimely under Board Rule 101.8.
3. The Petition does not comply with Board Rule 101.9.

At the order of the Board a hearing was held on October 9, 1981 and continued on October 22, 1981.

The Hearing Examiner filed her Report and Recommendations on January 26, 1982. The Hearing Examiner made the following findings and recommendations:

1. Section 1711 (b) of the Comprehensive Merit Personnel Act (CMPA) establishes the presumptive appropriateness of any existing bargaining unit.
2. LPNA did not demonstrate that AFSCME had failed to adequately represent the members of the bargaining unit.
3. The CMPA and Board Rules did not provide for the decertification of a bargaining agent on the basis of the types of grievances advanced by the LPNA.

D.C. Code Section 1-618.11 entitled, "Rights accompanying exclusive recognition" provides in pertinent part as follows:

...(b) Bargaining units established at the time this chapter becomes effective shall continue to be recognized as appropriate units subject to Section 1-618.9(c), and labor organizations which have exclusive recognition in bargaining units existing at the time this chapter becomes effective shall continue to enjoy exclusive recognition in these units subject to Section 1-618.10(b)(2).

This statutory language seems clear and binding on the Board and the parties in this case. The Board, having reviewed the entire record before it in conjunction with the statutory language, adopts the findings and recommendations of the Hearing Examiner as set forth above. Accordingly, the Board finds that based upon the facts presented herein, it does not have statutory authority to grant this Petition.

ORDER

It is ordered that:

The Petition is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

April 28th, 1982.