

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

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In the Matter of:

The District of Columbia Armory Board,

Petitioner,

and

The American Federation of State,  
County and Municipal Employees,  
District Council 20, Local 877,

Intervenor.

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PERB Case No. 85-R-01  
Opinion No. 119

DECISION AND ORDER

On October 19, 1984, the District of Columbia Armory Board (Armory Board) filed with the District of Columbia Public Employee Relations Board (Board) a "Petition for a separate Compensation Bargaining Unit" for a collective bargaining unit of maintenance employees. There are approximately 14 employees in the unit and they are currently represented by Local 877 of the American Federation of State, County and Municipal Employees, District Council 20 (AFSCME). The Armory Board unit is a part of the multi-agency, multi-union Compensation Bargaining Union No. 2 established by the Board in Case No. 80-R-08 on February 6, 1981.

The Armory Board contends that it needs a separate compensation bargaining unit because, as a non-appropriated funded agency and an independent personnel authority, its operations are significantly different from other D.C. government agencies to justify separate compensation negotiations. The Armory Board further contends that, because it is a non-appropriated funded agency, it is responsible for assuring its ability to pay negotiated wage rates and must maintain a tighter control over its labor costs.

On November 8, 1984, AFSCME filed comments with the Board opposing the separation of the Armory Board unit from Compensation Unit No. 2. AFSCME contends that the Armory Board had sufficient notice of its inclusion in Compensation Unit No. 2 by the Board. AFSCME also contends that representatives of the Armory Board participated in ground rule negotiations for compensation agreement reached on October 18, 1984. AFSCME contends that once negotiations have begun, a party is not permitted to withdraw from them except under special circumstances, not present in this instance.

AFSCME also contends that the Armory Board did not challenge its status as a member of Compensation Unit No. 2 until 8 days after an agreement had been reached and its proposals for non-compensation bargaining were on the table. Finally, AFSCME argues that if the Board grants the Armory Board's request, it would establish a dangerous precedent which would undermine the CMPA's mandate for broad compensation bargaining units. AFSCME requests that the Board rule that the Armory Board unit must remain a member of Compensation Bargaining Unit No. 2.

The issue before the Board is whether the Armory Board's request for a separate bargaining unit is appropriate under the circumstances.

A hearing was conducted by a Hearing Examiner on December 13, 1984. All parties were afforded the opportunity to present testimonial and documentary evidence and to cross-examine witnesses. Post-hearing briefs were filed by both parties on January 23, 1985. Additional documentation requested from the Armory Board by the Hearing Examiner was received on February 10, 1984. The Hearing Examiner's report and recommendation was filed with the Board on March 20, 1985. Both parties were afforded the opportunity to file written exceptions to the Hearing Examiner's report and recommendation, but neither party choose to do so.

Based on his findings of fact, the Hearing Examiner recommended that the Armory Board's request for a separate compensation bargaining unit be granted. He also recommended that the Board's Order in Case No. 80-R-08 be amended to reflect this change.

The Board has reviewed the entire record in this matter and concludes that a separate compensation bargaining unit is appropriate, in this instance, because the bargaining history of the Armory Board and the unit has always included a compensation collective bargaining agreement separate from Compensation Unit No. 2.

#### O R D E R

IT IS ORDERED THAT:

A separate compensation collective bargaining unit for maintenance employees of the District of Columbia Armory Board is hereby established. The Board's Order in Case No. 80-R-08 is amended to exclude the District of Columbia Armory Board from its coverage.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
July 22, 1985