

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of)	
)	
Fraternal Order of Police)	
Metropolitan Police Department)	
Labor Committee,)	
)	
)	Petitioner,
)	
District of Columbia)	PERB Case No. 81-R-05
Metropolitan Police Department,)	
)	Opinion No. 33
)	
)	Agency,
)	
International Brotherhood of)	
Police Officers, Local 442,)	
)	
)	Intervenor.

DECISION AND ORDER

Background

On December 15, 1981, an election was conducted by the American Arbitration Association (hereafter AAA) to determine whether eligible employees of the District of Columbia Metropolitan Police Department (hereafter MPD) wanted to be represented by the Fraternal Order of Police Metropolitan Police Department Labor Committee (hereafter FOP), the International Brotherhood of Police Officers, Local 442 (hereafter, IBPO) or whether they wanted no union representation.

On December 21, 1981, AAA forwarded the election results to the Public Employee Relations Board (hereafter, Board). The results were as follows: IBPO - 1,084 votes, FOP - 1,555 votes and no union - 53 votes. On December 21, 1981, IBPO filed election objections. FOP and the District of Columbia (hereafter, City) responses were filed on January 4, 1982.

In the objections, allegations were made by IBPO against the City, FOP and the Board.

Discussion

IBPO alleged that statements made by Mayor Marion Barry and Donald Weinberg, Director, Office of Labor Relations and Collective Bargaining, violated "laboratory conditions", in that the statements were substantial misrepresentations of material facts. These statements were contained in literature distributed by IBPO. Allegations were also made that campaign literature distributed and statements made by FOP and FOP officials contained false statements that misled members of the bargaining unit. The Board has determined, with respect to the campaign literature and the statements, that IBPO has failed to come forward with substantive evidence of probative value to substantiate the contention that the City or FOP has so disturbed the laboratory conditions as to affect the outcome of the election. [Radio Corp. of America 33 LRRM 1035 (1953); General Shoe Corp. 21 LRRM 1337]

IBPO further alleged that the City disturbed laboratory conditions by installing tachograph equipment in squad cars in the Third District. The policy of the MPD is to install tachographs in police districts with high accident rates. The Third District fell into that category at the time and, accordingly, tachographs were installed in Third District vehicles. The Board determines that there is insufficient evidence to support the contention that the laboratory conditions were so disturbed as to interfere with the employees' exercise of freedom of choice.

IBPO also alleged that FOP distributed literature on election day in violation of the election agreement. Based on its investigation the Board finds this charge to be unsupported by the facts.

IBPO alleged that the integrity of the ballot box was jeopardized during transport from the Third Police District Headquarters because it was not accompanied by an IBPO observer. Based on its investigation, the Board finds this contention to be without merit. The election agreement between the parties did not require that the ballot boxes be accompanied by observers. Moreover, there is evidence indicating that IBPO observers were afforded the opportunity to accompany the ballot box, but inexplicably, declined the opportunity. Since the ballot box in question was, at all times, under the personal supervision and control of AAA staff members, the Board finds nothing to support IBPO's contention that laboratory conditions, in this regard, were disturbed.

Finally, IBPO charges that the Board erred in dismissing the Standards of Conduct and the Clarification of Unit Petitions previously filed in cases 81-S-02 and 81-R-09 by IBPO without a hearing. In so doing, IBPO contends that the Board gave credence and support to FOP.

Pursuant to Board Rules, hearings are not required in all cases presented to it. The Board Rules provide that subsequent to the filing of a petition the Board may: 1) approve a withdrawal request; or 2) dismiss the petition; or 3) conduct an informal conference, or 4) hold a hearing. After a complete review of the facts and evidence submitted in cases 81-S-02 and 81-R-09, the Board found that the assertions by IBPO were not substantiated by the facts. Accordingly, the Board in Opinion No. 23 dated November 24, 1981, dismissed the petitions. In view of the fact that Opinion No. 23 was issued prior to the election, the Board finds that it, in no way, affected the outcome of the election.

Conclusion

The Board finds that the evidence is insufficient to support the contentions that the actions alleged herein interfered with the employees' exercise of freedom of choice so as to affect the outcome of the election.

ORDER

It is ordered that:

The election objections filed by IBPO are dismissed and that the election results, as reported by the AAA, be certified.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

February 17, 1982