

[Labor Relations Agency Stationery]

ORDER AND DECISION NO. 52

PERTAINING TO THE UNIT PLACEMENT OF
FORESTRY TECHNICIANS I, II, III, AND
IV (UC-78-0)

In 1978 responsibility for care of forest lands was transferred from the Federal Bureau of Land Management to the State Department of Natural Resources. Shortly thereafter the State Division of Forestry perceived a need for a new position involving certain employees who had been employed as laborer firefighters. The Department created a series of job descriptions for Forestry Technicians I, II, III, and IV. The Division of Personnel determined that the General Government Unit, represented by the Alaska Public Employees Association, was the appropriate bargaining unit for the new technician series. The Alaska Public Service Employees Local 71 objected to that determination.

In extensive hearings before the Alaska Labor Relations Agency, the Agency examined those factors relevant to appropriate bargaining unit placement of an employee group: community of interest, wages, hours, and working conditions; the history of collective bargaining; and the desires of the employees. In Order and Decision #38, the Agency decided that these factors were too evenly balanced for the Agency to make a definitive ruling in favor of one union. As the statute emphasized the desires of the employees in determining unit placement, the Agency ruled that an election should be held to ascertain

those desires. The results of this election would determine the unit placement.

This decision was appealed by the Alaska Public Employees Association. The Superior Court in the First Judicial District of the State of Alaska heard the appeal and ruled that the Agency's decision was improper: the Agency itself had to determine the appropriate bargaining unit, and this determination could not be left to the result of an election. The Court remanded the case to the Agency so the Agency could obtain further evidence on this question, either by conducting an election or straw poll of the employees or by another means deemed appropriate by the Agency.

Rather than conduct an election, the Agency held an additional hearing on July 23, 1979, to permit the involved parties to present evidence regarding employee desires. Both Unions were represented and had an opportunity to present evidence and testimony.

The Alaska Public Employees Association presented several petitions and signed bargaining cards indicating that about seventy percent (70%) of the employees in the bargaining unit desired representation by the Alaska Public Employees Association.

Local 71 presented petitions and cards indicating that approximately thirty percent (30%) of the employees wished representation by Local 71. The signatures of some seven or eight cards duplicated signatures on APEA cards, although the Local 71 cards were dated after the APEA cards. Local 71 also contended that employees really favored Local 71, but

were coerced into not signing Local 71 cards for fear of harassment by their supervisors and possible loss of their jobs. No direct evidence of any coercion was presented.

The Alaska Public Employees Association presented a number of witnesses in rebuttal who testified they were supervisors of lower level forestry technicians and had not engaged in any attempts to coerce any employees to sign any representation cards, either for APEA or Local 71. They swore they had never received instructions from their supervisors to pressure employees to select one union over another.

APEA's witnesses also testified about the additional duties of forestry technicians other than firefighting duties. Local 71 presented evidence that all forestry technicians were required to pass physical examinations, apparently geared towards certifying employees' physical capacity to engage in firefighting activities whether or not they performed firefighting or other administrative or technical activities. Local 71 contended this was a true indicator of the job these employees were required to perform.

FINDINGS OF FACT

After considering all arguments and evidence advanced by the parties, the Agency finds that the evidence shows that most employees want to be represented by the Alaska Public Employees Association. The Agency further finds that no evidence justifies the conclusion that the employees signed these cards due to coercion by their supervisors,

or that they failed to sign petitions favoring Local 71 because they feared for their jobs.

CONCLUSION

The Agency concludes, after consideration of the employees' community of interest, wages, hours, and working conditions, the history of collective bargaining, and employees' desires, that the Forestry Technician series is appropriately in the General Government Unit, represented by the Alaska Public Employees Association. The burden of proof to establish that the designated unit is inappropriate rests with the objecting party. The Agency finds that sufficient proof counteracting the original unit placement was not presented.

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The Alaska Labor Relations Agency hereby orders that the Unit Clarification Petition UC-78-0 filed by Local 71 seeking the placement of the Forestry Technicians I, II, III, and IV in the Labor Trades and Crafts Unit is denied.

DATED this 13th day of August, 1979

SIGNED: _____
C. R. "Steve" Hafling, Chairman

SIGNED: _____
Morgan Reed, Member

SIGNED: _____
Ronald M. Henry, Member

[Signatures on File]