

[Labor Relations Agency Stationery]

October 29, 1980

IN THE MATTER OF STATE OF ALASKA)	
APEA, CONFIDENTIAL EMPLOYEES)	
ASSOCIATION)	RE: UC 80-12
)	
)	
JULIE KANTOR, PCN 100210)	
CLERK TYPIST II)	
GGU TO CONF.)	
)	
)	
)	

ORDER AND DECISION NO. 62

On July 15, 1980, the State of Alaska recommended to the Unions involved, that PCN No. 10210, Clerk Typist II, be moved from the General Government Bargaining Unit to the Confidential Bargaining Unit. APEA opposed the move, and the matter was heard on October 3, 1980 in Juneau, Alaska. Present were the representatives of the State of Alaska, the General Government Unit and the Alaska Public Employee Association.

The facts elicited at the hearing were basically hearsay, Julie Kantor, the person who filled the position, was not present.

The State of Alaska, alleged that the employee was involved 55% "personnel" work which fulfills the confidential definition as set forth in 2 AAC 10.220. That 55% is 20% xeroxing, 20% filing, 10% processing incoming mail, and 5% general other duties.

Representatives of both unions alleged that Julie Kantor's

duties were approximately 30% were for the personnel office. The basic position of the Alaska Public Employee Association representative, was that Julie Kantor should remain in the General Government Unit. The position of the Confidential Employee's Association representative, was that CEA is attempting to ferret out who should really be in their unit and obtain some ground rules to go by to determine who should be in the unit.

The testimony elicited was basically that this position was a difficult one to define, and unit wise, this position acquired somewhere between 30% to 65% filing and xeroxing, etc., for the Confidential Supervisor, and 45% to 70% were for the General Government Supervisor.

The fact that Julie Kantor has not been in the position for a long time, the position is relatively new and that neither of the three parties can rely 100% what is on the P402 (That form sets forth the description and duties of each position description and PCN Number. P402's are compiled by the immediate supervisor of the employee.) It was undisputed at the hearing that there were/and are clerk typists and clerks in the personnel office which are in the confidential unit.

That the majority of the clerk typists and clerks in the personnel offices work 100% of their time in the personnel office doing personnel related duties. Those positions are "clerical positions" and the personnel offices

have no more substantive roles in Collective Bargaining matters than this present position does.

Prior Orders and Decisions of the Alaska Labor Relations Agency, Orders and Decisions 1,6,9, and 32 have dealt directly or indirectly with classification and definition of confidential employees as defined in 2 AAC 10.220. An explicit part of that definition is that the Confidential Unit is to be "narrowly construed". The General Government Unit, on the other hand, was created to cover those technical, professional and clerical personnel in the employ of the State except Supervisors and Confidential Employees as defined by 2 AAC 10.220 t2), and certain other exceptions.

This issue is one of first impression for the Alaska Labor Relations Agency. The Agency has determined a two-prong test to determine where an employee whose duties are split between two supervisors in different bargaining units should be placed. The first prong is who has primary control over the majority of the employees duties. The second test is that the Agency will look at the actual duties the employee is performing in assisting that the confidential supervisor, and whether the employee has significant responsibilities in reference to substantial time and duties spent for a person who determines and effectuates management policy.

The Labor Relations Agency will follow the mandate of 2 AAC 10.220 and narrowly construe "confidential employees".

The mere fact that a person spent some time in duties for a person who forms, determines and effectuate management policy will not automatically place an employee in the confidential unit.

The essence of the two-prong test is to determine whether an employee works a greater amount of time for administrative officer or a confidential officer, and the agency will not only look to the mathematical amount of time a person spends but will look to the significant responsibilities and duties a person has for the confidential officer.

FINDINGS OF FACT

1.) The Labor Relations Agency finds that Julie Kantor's supervisors share the primary control over the employee. However, the Labor Relations Agency has persuaded that the testimony that the employee works practically 30% of the time for the personnel office and the rest are duties for the Administration Office.

2.) The Labor Relations Agency finds that Julie Kantor's duties in assisting and acting in a confidential capacity and her

significant responsibilities are with the administrative office as opposed to the personnel office.

CONCLUSIONS OF LAW AND ORDER

It is therefore concluded as a matter of law, that the employee should remain within the General Government Unit and the State's request for Unit Clarification is hereby DENIED.

DATED: 10/31/80

C. R. "Steve" Hafling, Chairman

Morgan Reed, Member

Ronald M. Henry, Member

[Signatures on File]