

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

AFSCME Council 64,
Petitioner,

v.

Kansas Department of Corrections,
Lansing Correctional Facility
Respondent,

and

Public Employee Service
Organization (PESO),
Intervenor.

Petition for Unit Clarification/Amendment
No. 75-UCA-4-1995

Cross-reference:
Petition for Unit Decertification
No. 75-UDE-2-1995

Pursuant to K.S.A. 75-4321 et seq.
and K.S.A. 77-501 et seq.

Initial Order

Now on this 24th day of April, 1995 this case comes before Don Doesken, presiding officer, for a pre-hearing conference.

Petitioner AFSCME Council 64 appears by Don Hoffman, counsel; by Jessie Cornejo, President; and by Roy Swanson, of the AFSCME International Union.

Respondent Kansas Department of Corrections appears by Tim Madden, counsel; and by Evan Johnson and Les Hughes of the Kansas Department of Administration, Division of Personnel Services.

Intervenor PESO appears by Albert Brinkman, President.

Issue Presented

Whether the existing unit of correctional officers employed at the Lansing Correctional Facility should be amended to include the correctional officers employed at the Osawatomie Correctional Facility.

75-UCA-4-1995

Initial Order

Re: AFSCME Council 64 v. Kansas Dept of Corrections and PESO

Page 2

Conversion to a Conference Hearing

After hearing the statements of the parties, the presiding officer concludes that there are no material issues of fact, and that the pre-hearing conference can be converted into a conference hearing pursuant to K.S.A. 77-506 and K.S.A. 77-533 for an immediate disposition of the questions raised in this case.

The presiding officer finds that the Osawatomie Correctional Facility has become a satellite facility of the Lansing Correctional Facility; that there is a strong community of interest between the employees of the existing unit at the Lansing Correctional Facility and the employees of the Osawatomie Correctional Facility; and that amending the existing unit to include the employees of both facilities would serve the goals of efficiency of administration and the avoidance of fragmentation set out in K.S.A. 75-4327(e) for appropriate bargaining units.

The presiding officer further determines that no election is needed to accomplish this amendment, as there are only 24 workers at the Osawatomie facility to be added to the existing unit at Lansing of approximately 457 workers. The parties have conceded that the votes of these additional workers would not have affected the results of the election held for the Lansing unit approximately one year ago. In fact, the parties have advised the presiding officer that the correctional officers at Osawatomie were allowed to vote in the last election, even though they were not yet included in the Lansing unit;

Initial Order

Re: AFSCME Council 64 v. Kansas Dept of Corrections and PESO

Page 3

however, the votes from the Osawatomie facility were not counted, because they did not affect the election results.

The parties have stipulated, and the presiding officer concurs, that the unit as now amended should include all Correctional Officer Trainees, all Correction Officers I and II; and all Correction Specialists I employed at both the Lansing Correctional Facility and the Osawatomie Correctional Facility; with the exception of supervisory, confidential, temporary, and emergency employees in those positions.

Finally, the presiding officer finds that the amendment of this unit will affect PERB's processing of the Unit Decertification Petition filed for this unit in PERB Case No. 75-UDE-2-1995. PESO's showing of interest in that case will now have to be evaluated with regard to the unit as amended in this case; that is, PESO must produce a showing of interest by at least 30% of the employees in the unit, as amended, in order to qualify for an election to replace AFSCME as the exclusive bargaining representative. However, PESO's president, Albert Brinkman, has specifically waived the right to file an amended showing of interest in support of PESO's petition in that case.

WHEREFORE the existing bargaining unit is hereby amended as set forth above.

Entered in Topeka, Kansas this 28th day of April, 1995.



Don Doesken, Presiding Officer

Initial Order

Re: AFSCME Council 64 v. Kansas Dept of Corrections and PESO

Page 4

Notice of Right to Review

This is an initial order issued by a presiding officer pursuant to K.S.A. 77-526. This order will become a final order pursuant to K.S.A. 77-530 unless reviewed by the Public Employee Relations Board pursuant to K.S.A. 77-527. Parties seeking review of this order must file a Petition for Review with the PERB Board office within 18 days after the mailing of this order, or by the close of business on Friday, May 19, 1995.

Certificate of Service

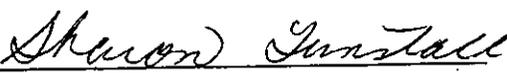
I, Sharon Tunstall do hereby certify that on this 1st day of May, 1995 true and correct copies of this Order were deposited in state inter-agency mail and in the United States Mail, first-class, postage pre-paid, addressed to all current members of the Public Employee Relations Board and to:

Timothy G. Madden
Kansas Dept. of Corrections
900 S.W. Jackson, Suite 400
Topeka, Kansas 66612
Attorney for Kansas Department of Corrections

Don Hoffman
TILTON & HOFFMAN
1324 S.W. Topeka Ave.
Topeka, Kansas 66612
Attorney for AFSCME

Albert Brinkman, President
Public Employee Service Organization
P.O. Box 879
Leavenworth, Kansas 66048

Terry L. Harris
P.O. Box 188
Lansing, Kansas 66043-0188
Attorney for PESO


Sharon Tunstall