

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

United Rubber Workers Local)
Union 851,)
Petitioner,)

v.)

Washburn University of)
Topeka,)
Respondent.)

Case No(s): 75-UDC-3-1993

INITIAL ORDER

ON the 2nd day of December, 1992, the Petitioner, United Rubber Workers Local Union 851 filed a petition for a Unit Determination and Certification seeking to become the exclusive representative for certain employees at Washburn University of Topeka. As evidence of the jurisdiction of the Public Employees Relations Board to entertain the petition the Petitioner stated: "Washburn University is a city owned and operated university."

Washburn University filed an answer on December 14, 1992 challenging the jurisdiction of the Public Employees Relations Board stating:

"...Washburn University of Topeka is neither city owned nor operated, but is established and operated pursuant to [K.S.A. 13-13a03 and 13-13all et seq.]. Respondent further alleges that Washburn University of Topeka is a public employer as defined by K.S.A. 75-4322(f); that the Board of Regents of Washburn University of Topeka is the governing body thereof as defined by K.S.A. 75-4322(g); that said governing body has made no election to bring this respondent under the provisions of the Public Employer Relations Act (sic) as required by K.S.A. 75-4321(c), and therefore, this Board is without jurisdiction."

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K.S.A. 75-4321(c) provides; in pertinent part:

"The governing body of any public employer, other than the state and its agencies, by a majority vote of all the members may elect to bring such public employer under the provisions of this act, and upon such election the public employer and its employees shall be bound by its provisions..."

"Governing Body" is further defined in K.S.A. 75-4322(g) to mean:

"the legislative body, policy board or other authority of the public employer possessing legislative as policymaking responsibilities pursuant to the constitution or laws of this state."

The issue then is whether Washburn University of Topeka and its Board of Regents is an independent governing body, as Respondent asserts, as a sub-division of some sort of the City of Topeka, as the Petitioner argues. The burden is upon the Petitioner to produce sufficient evidence as to establish the jurisdiction of the Public Employees Relations Board. Petitioner has failed to satisfy that burden.

Petitioner produced no substantive evidence to establish either Washburn University of Topeka is not an independent governing body, or that the City of Topeka is the dominant party in establishing terms and conditions of employment or in labor relations relative to employees at the university.

Exhibit A of Petitioner's Response of the United Rubber Workers Union For Pre-Hearing Conference even states:

"In the Kansas set-up, a municipal university is a little governing body of its own. It handles its own buying and administrative duties, its hiring and firing, thru a board of regents and its president. It levies its own

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taxes, . . . , just like the city, county and other governmental divisions."

Washburn University of Topeka, being an independent governing body, must affirmatively vote to be covered by the provisions of the Public Employer-Employee Relations Act. Having failed to so vote, the Public Employee Relations Board is without jurisdiction to act upon Petitioner's petition. Accordingly, Respondent's Motion to Dismiss for lack of jurisdiction is granted.

IT IS THEREFORE ORDERED that the United Rubber Workers Local Union 851 petition for Unit Determination and Certification be dismissed.

Dated this 18th day of March, 1993.



Monty R. Bertelli
Senior Labor Conciliator
Employment Standards & Labor Relations
512 SW Sixth Street
Topeka, KS 66603-3174

RIGHT TO REQUEST HEARING

This is a summary proceeding pursuant to K.S.A. 77-537. A party may request a hearing on the order by filing a request with the presiding officer within fifteen (15) days of service of the Order setting forth the issues to be determined at the hearing. Failure to request a hearing will result in the Order becoming effective upon expiration of the time for requesting a hearing.

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CERTIFICATE OF MAILING

I, Sharon Tunstall, Office Specialist, for Labor-Management Relations and Employment Standards of the Kansas Department of Human Resources, hereby certify that on the 23rd day of March, 1993, a true and correct copy of the above and foregoing Initial Order was deposited in the U. S. Mail, first class, postage prepaid, addressed to:

James A. Pope, International Representative
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Sharon Tunstall