

VERMONT LABOR RELATIONS BOARD

TOWN OF CASTLETON	)	
	)	
and	)	DOCKET NO. 89-72
	)	
AFSCME, AFL-CIO	)	

MEMORANDUM AND ORDER

On October 28, 1989, the Town of Castleton ("Town") filed a Petition for Decertification of Collective Bargaining Representative with the Labor Relations Board, alleging that the presently-certified bargaining agent of Town employees, AFSCME, AFL-CIO ("Union"), was no longer supported by a majority of Town employees.

The Labor Relations Board certified the Union as the exclusive bargaining representative of all full-time employees of the Town Highway Department and Police Department, excluding the Chief of Police and the Supervisor of the Highway Department, on July 21, 1988, subsequent to an election conducted by the Board on July 8, 1988, in which all eligible employees voted. The results of the election were seven votes for the Union and no votes for no union. AFSCME, AFL-CIO and Town of Castleton, Docket No. 88-24.

On October 26, 1989, pursuant to the Town's decision to leave the Highway Department supervisor position vacant and the agreement of the parties to the exclusion of the Highway Department Foreman position from the bargaining unit, the Board issued an Order amending the July 21, 1988, Order of Certification to provide that the Union was certified as the exclusive bargaining representative of all full-time employees of the Town Highway Department and Police Department, excluding the Chief of Police and the Foreman of the Highway

Department. Town of Castleton and AFSCME, AFL-CIO, Docket No. 89-42. As a result, there remain six employees in the bargaining unit represented by the Union. The Town indicated in its petition that there is no collective bargaining agreement in effect.

The Town, in support of the allegation that the Union no longer represents a majority of employees, submitted three letters with the decertification petition, the contents of which are summarized as follows:

a) An August 26, 1989, letter from the Sergeant of the Town Police Department, who is included in the bargaining unit represented by the Union, to the Town Manager and Board of Selectmen. Therein, the Sergeant indicates that he will have no more involvement in the contract negotiations between the Union and the Town, that he was "more interested in doing my job than bickering over a bargaining table". The Sergeant cited as reasons for his decision that his involvement in contract negotiations had hampered his ability to investigate crimes given a limited amount of working hours and that his confidence in resolving problems had been greatly restored with a new Town Manager.

b) An October 23, 1989, letter from a Highway Department employee, who is included in the bargaining unit represented by the Union, to the Town Manager. Therein, the employee stated that he no longer was in support of the Union representing him and that he "would appreciate anything the Town could do to eliminate it from my department".

c) An October 26, 1989, letter from the Highway Foreman, who is not a member of the bargaining unit represented by the Union, to the

Town Manager. Therein, the Highway Foreman indicated that he had been approached by two Highway Department employees, including the employee who wrote the October 23 letter to the Town Manager, "regarding their discontent with union representation".

In reference to decertification petitions filed by municipal employers, 21 VSA §1724(b) provides:

The board, a member thereof, or a person or persons designated by the board shall investigate the petition, and,

1) if it finds reasonable cause to believe that a question of unit determination or representation exists, an appropriate hearing shall be scheduled before the board upon due notice..., or

2) dismiss the petition, based upon the absence of substantive evidence.

A question of unit determination exists supporting an employer petition if the employer demonstrates by objective considerations that it has some reasonable grounds for believing the union has lost its majority status since its certification. Town of Weathersfield and AFSCME, 6 VLRB 147 (1983). Section 33.8, Vermont Labor Relations Board Rules of Practice.

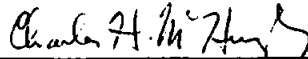
We conclude that the Town has not demonstrated by objective considerations that it has some reasonable grounds to believe the union has lost its majority status since its certification. The Town has demonstrated reasonable grounds to believe that two of the employees no longer support the Union. The Police Department Sergeant and a Highway Department employee indicated they no longer supported the Union as their bargaining representative through their letters to the Town Manager. However, the Town has not sufficiently demonstrated it has reasonable belief that any of the remaining four employees do not support the Union as bargaining representative. The assertion by

the Highway Department Foreman that an additional employee approached him and indicated discontent with Union representation is not sufficient to meet the necessary test for the Town to demonstrate by objective consideration a reasonable belief that employee does not support the Union as bargaining representative. Weathersfield, supra, at 149.

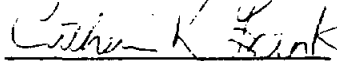
Accordingly, it is hereby ORDERED that the petition of the Town of Castleton is DISMISSED based upon the absence of substantive evidence that a question of representation exists.

Dated this 25 day of December 1989, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD



Charles H. McHugh, Chairman



Catherine L. Frank



Leslie G. Seaver