

VERMONT LABOR RELATIONS BOARD

TOWN OF WEATHERSFIELD)	
)	
-and-)	DOCKET NO. 83-34
)	
AMERICAN FEDERATION OF STATE,)	
COUNTY AND MUNICIPAL EMPLOYEES)	

MEMORANDUM AND ORDER
DISMISSING PETITION

On May 20, 1983, the Town of Weathersfield ("Town") filed a petition with the Labor Relations Board, alleging that the presently-certified bargaining agent, the American Federation of State, County and Municipal Employees ("AFSCME"), was no longer supported by 51 percent of the employees of the bargaining unit composed of all the employees of the Town Highway crew and requesting that an election be conducted by the Board.

AFSCME was certified as bargaining representative by the Board May 19, 1982, subsequent to an election conducted by the Board on April 28, 1982, in which there were six votes for AFSCME and no votes for no union. AFSCME and Town of Weathersfield, #82-17. To date, AFSCME and the Town have not negotiated a collective bargaining agreement.

In reference to such 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.

Pursuant to this section, Board Executive Director Timothy Noonan sent an investigatory letter to Town Manager Ernest Torpey on June 10, 1983, in which he requested information concerning the status of negotiations between the parties, whether AFSCME had continued to communicate with the Town, whether AFSCME had been wholly inactive in the Town and the turnover rate of employees in the bargaining unit since AFSCME was certified as bargaining agent.

Mr. Torpey responded to the letter on June 23, 1983. In his letter, Torpey stated there had been six negotiations sessions between the parties, with the last session being held on May 3, 1983, but that the Town had not heard from AFSCME since the petition before us was filed by the Town. Torpey reported no substantial turnover among bargaining unit employees since AFSCME was certified as bargaining agent. Torpey stated three employees told him they wanted a new election, and that "employees have been expressing dissatisfaction with the union for some time now, saying that if they had to do it over again, they would not have voted for the union because it's not what they expected it to be".

A question of representation 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. Taft Broadcasting Co., 201 NLRB 801, 82 LRRM 1338(1973). Viking Lithographers, Inc., 148 NLRB 139, 74 LRRM 1407 (1970). United States Gypsum Co., 157 NLRB 652, 61 LRRM 1384 (1966).


The Town has not submitted any "objective considerations" to support its petition. It is evident the parties are in on-going negotiations for a contract to cover the same employees who unanimously voted for AFSCME to represent them; negotiations which have been disturbed only by the Town's petition. We cannot presume there are reasonable grounds for believing AFSCME no longer has majority status, with only the assertion of the Town Manager that half the employees seek a new election to support such a claim. If the employees actually desire an election decertifying AFSCME, we believe it a better practice that they file a petition themselves seeking such an election pursuant to 21 VSA §1724(a)(1).


Accordingly, it is hereby ORDERED:

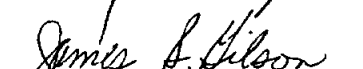
The Petition of the Town of Weathersfield is
DISMISSED, based upon the absence of substantive
evidence that a question of representation exists.

Dated this 30th day of June, 1983, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Kimberly B. Cheney, Chairman


William C. Kemsley, Sp.


James S. Gilson