

VERMONT LABOR RELATIONS BOARD

PETITION FOR DECERTIFICATION)	
OF COLLECTIVE BARGAINING)	
REPRESENTATIVE (RE: CITY OF)	DOCKET NO. 00-32
OF MONTPELIER PUBLIC WORKS)	
EMPLOYEES))	

MEMORANDUM AND ORDER

The issue is whether to dismiss the petition filed in this matter on May 5, 2000, by Montpelier Department of Public Works employees to decertify IUOE Local 98 ("Union") as collective bargaining representative. The Union contends that this petition should be dismissed as untimely filed pursuant to Section 33.2 of the Board Rules of Practice, which provides:

If a collective bargaining agreement is in effect which covers any or all of the employees to be covered by the petition, a petition shall normally be considered timely only if filed during the period 90 to 60 days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof if a successor agreement has not become effective. A petitioner filing a petition at any other time shall justify why the normal time period should be waived.

There is a collective bargaining agreement in effect between the City of Montpelier and the Union until June 30, 2000. Since the petition was filed 56 days prior to the agreement's expiration date, outside of the 90 to 60 day window period, the Union contends that the Board should dismiss the petition as untimely filed. The petitioning employees request that the Board waive the normal time period because negotiations for a successor agreement were complete at the time the petition was filed, and the Union president promised to not stand in the way of a vote on the union representing employees. The Union responds that negotiations are not complete because the employees voted to not ratify a negotiated agreement, and further negotiations are required. The Union

further maintains that the statement by the Union president does not mean that an untimely petition should be allowed; that if the Union fails to satisfy its members and no successor agreement is reached, the employees will have an opportunity to file a decertification petition and vote on whether to be represented by the Union.

In a previous case, the Board noted that the objective of the contract bar doctrine reflected in the above-cited Section 33.2 of Board Rules is to achieve a reasonable balance between the competing interests of stabilizing the employer-union relationship and free employee choice of a representative. St. Albans Police Officers Association and Local 1343, AFSCME, AFL-CIO and City of St. Albans, 8 VLRB 46, 52 (1985). The “open” period 90 to 60 days prior to a contract’s expiration date provides employees with an opportunity for a free choice of bargaining representative at reasonable intervals. Id. at 53. The barring of a petition for the remainder of a contract term provides a settled work environment and stabilization of the employer-union relationship necessary for productive labor relations. Id. The rationale behind barring the filing of petitions in the 60 days prior to the expiration of the agreement is to allow the parties to negotiate free from the threat of a challenge to the majority status of the employee representative. Vermont State Housing Authority, 4 VLRB 257 (1981).

In applying these standards, we conclude that the decertification petition should be dismissed because the petitioning employees have not presented sufficient justification for waiving the normal time period. Contrary to the petitioning employees’ claim, negotiations were not complete at the time the petition was filed as employees had voted to reject the tentative negotiated agreement, thus requiring further negotiations. Further, any statement by the Union president concerning not standing in the way of a vote on the

union representing employees does not constitute an effective waiver of the Union's ability to contest an untimely petition. The petitioning employees will have the opportunity, pursuant to Section 33.2 of the Board Rules, to file a petition to seek to decertify the Union after the contractually provided June 30, 2000, date of expiration of the collective bargaining agreement if a successor agreement has not become effective. Village of Essex Junction Employees' Association and Local 1343, AFSCME, AFL-CIO and Village of Essex Junction, 14 VLRB 157, 159 (1991).

NOW THEREFORE, based on the foregoing reasons, it is hereby ORDERED that the petition filed in this matter on May 5, 2000, by Montpelier Department of Public Works employees to decertify IUOE Local 98 as collective bargaining representative is DISMISSED.

Dated this 23rd day of June, 2000, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Carroll P. Comstock

John J. Zampieri

Edward R. Zuccaro