

STATE OF MAINE

MAINE LABOR RELATIONS BOARD

Case No. 18-UC-01

Issued: April 12, 2018

_____)	
OXFORD COUNTY,)	
)	
Petitioner,)	
)	UNIT CLARIFICATION
and)	REPORT
)	
TEAMSTERS LOCAL UNION NO. 340,)	
)	
Bargaining Agent.)	
_____)	

PROCEDURAL HISTORY

This unit clarification proceeding was initiated on December 21, 2017, when Ms. Annalee Rosenblatt filed a petition for unit clarification on behalf of Oxford County with the Maine Labor Relations Board ("Board"), seeking the inclusion of the position of Detective in the Oxford County Sheriff's Department Criminal Investigation Division (CID) bargaining unit. Teamsters Local Union No. 340, the certified bargaining agent for the CID bargaining unit, filed a timely response to the petition on January 5, 2018. Due notice having been given, an evidentiary hearing on the petition was scheduled to be held on March 22, 2018. On March 19, 2018, the parties brought the undersigned into a conference call. During that call, the undersigned clarified that the only issues in the pending proceeding were whether the statutory pre-requisites for a unit clarification had been met and, if so, whether the Detective classification shared a clear and identifiable community of interest with the Captain and Lieutenant positions that constituted the CID bargaining unit. As a result of the conference call and a subsequent exchange of e-mail messages with and between the parties, the parties were able to stipulate to the relevant facts on March 29, 2018, obviating

the necessity of an evidentiary hearing in this matter. The stipulation was received by the Board on April 10, 2018.

STIPULATIONS OF THE PARTIES

The parties have stipulated to the following facts:

- 1) The Petitioner, Oxford County, is the public employer and the Respondent, Teamsters Local Union No. 340, is the certified bargaining agent for the CID employees bargaining unit.
- 2) The CID employees bargaining unit was formed by agreement of the parties, as a consequence of the filing of a petition for unit determination and bargaining unit election filed by the Teamsters on March 20, 2017.
- 3) The petition sought the formation of a bargaining unit consisting of the Captain and Lieutenant classifications in the CID of the Oxford County Sheriff's Department.
- 4) At the time that the petition was prepared and filed and when the unit agreement was reached on March 27, 2017, there were no employees in any other position in the CID, other than those in the Captain and Lieutenant classifications.
- 5) Since there were no other employees in the CID at that time, the Teamsters were unaware whether there were any vacant positions in the division. The Teamsters neither asked nor did the County inform the Teamsters whether there were any vacant positions in the CID during the discussions that resulted in the unit agreement.
- 6) The unit agreement provides that the bargaining unit includes the classifications/positions of Captain and Lieutenants and excludes "all other positions of the County."

7) The position at issue, Detective, is now filled with a full-time employee.

8) The Detective shares a clear and identifiable community of interest with the employees in the Captain and Lieutenant classifications in the CID bargaining unit.

9) The parties have been unable to agree on the change being sought through the unit clarification petition and there is no pending question concerning representation.

JURISDICTION

The jurisdiction of the executive director to hear this matter and to make a determination lies in 26 M.R.S. § 966(1), (2) and (3).

DISCUSSION

Section 966(3) of the Act sets forth four prerequisites for a petition for unit clarification. These are: 1) the petitioner must be either the employer or the certified or recognized bargaining agent; 2) the circumstances surrounding the formation of the bargaining unit must have changed sufficiently to warrant change in the composition of the unit; 3) the parties are unable to agree on the proposed change; and 4) there is no pending question concerning representation. Factors 1, 3 and 4 were stipulated to by the parties.

The unit in question was created by agreement of the parties and, since the Detective position was vacant at the time, the Union did not know that it existed. The Union neither asked whether there were any other positions in the division nor did the County volunteer that there were. Filling a vacant position that

had not previously been filled with a full-time employee constitutes a substantial change in the circumstances surrounding the formation of the unit in this case sufficient to warrant modification in the composition of the unit.

The parties have stipulated that the Detective shares a clear and identifiable community of interest with the Captain and Lieutenant positions that constitute the CID bargaining unit. Since they share a clear and identifiable community of interest as required by § 966(2) of the Act, the Captain, Lieutenant, and Detective classifications in the Oxford County Sheriff's Department Criminal Investigation Division, together, constitute an appropriate bargaining unit for purposes of collective bargaining.

CONCLUSION

On the basis of the foregoing findings of fact and discussion, and by virtue of and pursuant to the provisions of 26 M.R.S.A. § 966, the hearing examiner ORDERS:

1. The petition for unit clarification brought by Oxford County is granted.

2. The composition of the Oxford County Sheriff's Department Criminal Investigation Division bargaining unit is modified by the inclusion of the Detective classification.

Dated this 12th day of April 2018

/s/ _____
Marc P. Ayotte
Executive Director

The parties are hereby advised of their right, pursuant to 26 M.R.S.A. § 968(4), to appeal this report to the Maine Labor Relations Board. To initiate such an appeal, the party seeking appellate review must file a notice of appeal with the Board within fifteen (15) days of the date of issuance of this report. See Chapter 10 and Chap. 11 § 30 of the Board Rules.