

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

DETROIT PUBLIC SCHOOLS,
Petitioner - Public Employer,

Case No. UC03 J-038

-and-

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 547, AFL-CIO,
Labor Organization,

-and-

GREATER DETROIT BUILDING TRADES COUNCIL, AFL-CIO,
Labor Organization.

APPEARANCES:

Riley, Roumell & Connolly, P.C., by Gregory T. Schultz, Esq., and Roumell, Lange & Cholack, P.L.C., by Eric W. Cholack, Esq., for the Public Employer

Helson, PLC, by D. Richard Helson, Esq., for International Union of Operating Engineers, Local 547

Novara, Tesija & McGuire, P.L.L.C., by Nicholas R. Nahat, Esq., for Greater Detroit Building Trades Council

DECISION AND ORDER ON UNIT CLARIFICATION

This case was heard in Detroit, Michigan, on May 27, 2004, by Roy L. Roulhac, Administrative Law Judge for the Michigan Employment Relations Commission, pursuant to Sections 12 and 13 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212 and 423.213. Based on the record and post-hearing briefs filed by August 9, 2004, we find as follows:

The Petition:

On October 3, 2003, the Detroit Public Schools filed a petition to clarify the placement of a newly created hub supervisor position. The Employer had initially placed this position in a supervisory bargaining unit represented by the International Union of Operating Engineers, Local 547, AFL-CIO. The Greater

Detroit Building Trades Council, AFL-CIO, which represents a non-supervisory unit of employees, contends that the hub supervisor position should be included in its bargaining unit because hub supervisors are team leaders who lack genuine supervisory authority.

Facts:

The Building Trades Council is the exclusive bargaining representative for non-supervisory employees organized into two bargaining units - a "D" unit of journeymen and an "O" unit of trades forepersons, sub forepersons and assistant forepersons. These employees work in the Employer's facilities department. They are responsible for alterations, renovations and preventive and corrective maintenance of school buildings. The International Union of Operating Engineers, Local 547, represents a bargaining unit of non-instructional supervisory personnel (NISP), which includes supervisors in a wide variety of areas, including housekeeping, engineering, food service, and building trades. These supervisors are generally responsible for coordinating work in their particular area and ensuring its completion. The NISP unit also includes general foremen, individuals who coordinate each of the specific trades, such as plumbing, electrical, and carpentry.

In December of 2001, the Employer entered into a contract with Aramak to manage its facilities department, which includes building repair, custodial operation, and energy. In August of 2002, a reorganization in the department occurred, breaking up the building repair unit into four operating units. Three of these units are referred to as hubs, with each unit having responsibilities for corrective maintenance, preventative maintenance, or maintenance-related activities in a particular geographical area. The fourth operating unit was a construction group. As part of the reorganization, a new position entitled hub supervisor/facilities supervisor was created. The hub supervisor was to be responsible for coordinating and overseeing the full building repair responsibilities of buildings within their hub, including all crafts involved. After creating the hub supervisor position, the Employer placed the position in Local 547's supervisory bargaining unit. Because of the subsequent dispute over unit placement, the Employer filed the instant unit clarification petition.

The Employer appointed eighteen employees as hub supervisors in August of 2002. These individuals had formerly been employed as sub foremen, a position within the Building Trades Council's bargaining unit. The Employer eliminated the sub foreman position when the hub supervisor position was created. The sub foremen had been responsible for supervising multiple jobs of the same craft; for example, a carpenter sub foreman would go to many different locations and oversee the work of those in that craft. They did not have full responsibility for coordinating building repair needs for the schools within their area, nor did they have any budgetary responsibilities.

There are currently six hub supervisors per hub, each assigned to a geographical area. Hub supervisors are responsible for project management, coordinating resources and directing the work of employees in these areas. They are also responsible for budget preparation, identifying building repair needs in their areas as well as ensuring communication between the principal and the facilities manager. Hub supervisors are authorized to issue Level 1 discipline, or written reprimands, to employees represented by

the Building Trades Council, and they participate in the grievance process. They may also recommend that an employee be promoted by writing a letter to the hub manager. Although the hub supervisor position description indicates that they evaluate employees, the evaluation procedure had not been instituted by the date of the hearing. Hub supervisors are not authorized to hire or fire employees, these decisions are made by the Employer's Human Resources Department. Hub supervisors report to hub managers, who in turn report to the associate director of operations.

Discussion and Conclusions:

The Building Trades Council opposes the placement of the hub supervisor position in Local 547's supervisory bargaining unit, contending that hub supervisors are lead workers who lack genuine supervisory authority. The Building Trades Council also maintains that hub supervisors perform duties substantially identical to those previously performed by sub foremen. It also asserts that the fact that the hub supervisors may have a community of interest with those in the NISP unit does not destroy the community of interest with the Building Trades bargaining unit.

The Employer maintains that the hub supervisor is not merely a re-titling of a former position but involves an extremely significant and substantive change in job content from that of the former sub foreperson position. The Employer's expectation is that this position will be utilized to manage, oversee, and supervise across craft lines. It therefore requests that the Commission concur with its unit placement.

We have indicated that we will not disturb an established bargaining relationship unless the unit is *per se* inappropriate or an extreme divergence in community of interest is established. *Wayne Co Airport Police Dep't*, 2001 MERC Lab Op 163; *Dearborn Pub Schs*, 1990 MERC Lab Op 513. However, under Section 13 of PERA, supervisors may not be included in the same bargaining unit with the employees they supervise. *City of Detroit (DPW)*, 1999 MERC Lab Op 283. Therefore, if the supervisory status of the hub supervisor can be established, its placement in the Building Trades bargaining unit would be *per se* inappropriate.

We have defined a supervisor as one who possess authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or to effectively recommend such action, as long as this authority requires the use of independent judgment and is not merely routine. *MEA v Clare-Gladwin ISD*, 153 Mich App 792, 796-798 (1996); *City of Holland*, 2002 MERC Lab Op 40, 41; *Village of Paw Paw*, 2000 MERC Lab Op 370. Possession of any of the above powers may confer supervisory status. *Huron Co Medical Care Facility*, 1998 MERC Lab Op 137. An individual is not a supervisor under PERA if his or her authority is limited to the routine direction of the daily work of other employees and/or making work assignments of a routine nature. *Bloomfield Hills Sch Dist*, 2000 MERC Lab Op 363; *Huron Co Medical Care Facility*; *Kalkaska Co and Sheriff*, 1994 MERC Lab Op 693, 698.

The record demonstrates that the Employer has assigned greater authority to its hub supervisors than the former position of sub foreman. The hub supervisor has coordinating and budget responsibilities

that require the use of discretion and independent judgment, factors we have found important in determining supervisory status. Hub supervisors play a role in discipline and participate in the grievance process. We have held that the authority to issue formal discipline, or to effectively recommend such discipline, is an important indicator of supervisory authority even if that authority is rarely exercised. *Tuscola Intermediate Schs*, 2000 MERC Lab Op 226; *City of Detroit (DPW)*, 1999 MERC Lab Op 283; *City of Detroit*, 1996 MERC Lab Op 282; *Mesick Consolidated Schs*, 1988 MERC Lab Op 838. We find that the new responsibilities assigned by the Employer are sufficient to establish this position as supervisory.

Based on the above discussion, we conclude that the hub supervisor position shares a community of interest with the supervisory unit represented by Local 547. Accordingly, we issue the following Order:

ORDER

The supervisory bargaining unit represented by the International Union of Operating Engineers, Local 547 is hereby clarified to include the position of hub supervisor.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Harry W. Bishop, Commission Member

Nino E. Green, Commission Member

Date: _____