

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
LOCAL 135,

Petitioner,

v.

CITY OF WICHITA, KANSAS

Respondent.

Petition for Unit Amendment
PERB Case No. 75-UCA-2-1996

Pursuant to K.S.A. 75-4321 et seq.
and K.S.A. 77-501 et seq.

FINAL ORDER

Pursuant to K.S.A. 77-527

NOW ON THIS 20th day of November, 1996 this case comes before the Public Employee Relations Board (PERB) to review the presiding officer's Initial Order.

History of the Case

This case arose when the Petitioner IAFF Local 135 filed a Petition for Unit Amendment. Petitioner asked PERB to amend the existing bargaining unit of Fire Fighters and Fire Lieutenants to add the rank of Fire Captain. The Respondent City of Wichita filed an Answer opposing the petition, and a presiding officer was appointed to decide the matter.

The presiding office conducted an evidentiary hearing on March 20, 1996, received briefs from the parties, and issued an Initial Order on July 19, 1996. The Initial Order was mailed to the parties on July 31, 1996.

On August 15, 1996 the Respondent City of Wichita filed a timely petition with the PERB Board, requesting a review of the Initial Order. That request was orally

75-UCA-2-1996-F

granted by the Board during its regular meeting of August 21, 1996.

Thereafter, on August 23, 1996, the Board's executive director issued an Order Granting Review, which included a schedule for responsive briefs and oral argument. In accordance with the scheduling order, the City of Wichita filed its brief on September 25, 1996 and the IAFF Local 135 filed its brief on October 25, 1996. The case then came before the PERB Board for oral argument on November 20, 1996.

Immediately after the oral argument, the Board deliberated the matter in executive session, and returned to its open public meeting to vote on the matter.

Questions to be Determined

1. Whether Fire Captains are "supervisory employees" as defined in K.S.A. 75-4322(b), who cannot lawfully be included in any bargaining unit.
2. If Fire Captains are not "supervisory employees", whether it would be appropriate under the facts of this case to add the rank of Fire Captain to the existing unit of Fire Fighters and Fire Lieutenants.

Findings of Fact and Conclusions of Law

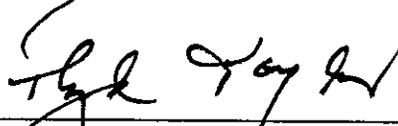
Having reviewed the Initial Order, the Petition for Review, and the briefs filed by both parties; having considered the oral arguments of the parties; having considered the advice of counsel; and having fully deliberated the matter, the Board finds, by a majority vote, that the presiding officer has fully and fairly considered the matter in all

Final Order
IAFF Local 135 v. City of Wichita, Kansas
PERB Case No. 75-UCA-2-1996
Page 3

particulars, and has correctly concluded that the existing bargaining unit can and should be amended as requested. The Board therefore adopts the presiding officer's Initial Order without modification, as the Board's Final Order in this case.

IT IS SO ORDERED this 18th day of December, 1996.

PUBLIC EMPLOYEE RELATIONS BOARD



Floyd Taylor, Chairman



William Haynes, Vice-Chairman

 voted - NO

Jeff Wagaman, Board Member



Errol Williams, Board Member



Greg Windholz, Board Member

Prepared by:



Don Doesken #10564
KDHR - Legal
401 Topeka Blvd.
Topeka, Kansas 66603-3182
(913) 296-5020
Attorney for PERB

Final Order
IAFF Local 135 v. City of Wichita, Kansas
PERB Case No. 75-UCA-2-1996
Page 4

Notice of Right to Seek Judicial Review

This is a final order issued by the Public Employee Relations Board pursuant to K.S.A. 77-527. This order is subject to review by the district court in accordance with the Act for Judicial Review and Civil Enforcement of State Agency Actions K.S.A. 77-601 et seq.

Unless a motion for reconsideration is filed pursuant to K.S.A. 77-529, a petition for judicial review must be filed with the appropriate district court within 30 days after the Order is served upon the parties. Since this Order is being served upon the parties by mail, the parties are allowed a total of 33 days from the date on the certificate of mailing below to file their petition for judicial review. See K.S.A. 77-613 (b) and (d).

Pursuant to 1995 Supp. K.S.A. 77-527(j), K.S.A. 77-613(e), and K.S.A. 77-615 (a), any party seeking judicial review must serve a copy of its petition upon the PERB Board's designated agent at the following address:

A.J. Kotich, Chief Counsel
KDHR - Legal
401 Topeka Blvd.
Topeka, Kansas 66603-3182

Questions concerning judicial review should be directed to Don Doesken, staff attorney, at the KDHR - Legal office at (913) 296-5020.

Certificate of Service

I, Sharon G. Junstall do hereby certify that on this 19th day of December, 1996 the foregoing Final Order was served upon the parties by depositing copies in the United States mail, first-class, postage pre-paid, addressed to:

Weston R. Moore
Steve A. J. Bukaty
BLAKE & UHLIG, P.A.
475 New Brotherhood Bldg.
753 State Avenue
Kansas City, Kansas 66101
Attorneys for Petitioner IAFF Local 135

Final Order
IAFF Local 135 v. City of Wichita, Kansas
PERB Case No. 75-UCA-2-1996
Page 5

Kelly J. Rundell
Assistant City Attorney
City Hall, 13th Floor
455 N. Main Street
Wichita, Kansas 67202-1635
Attorney for Respondent City of Wichita

Sharon L. Tunstall
Name: Sharon L. Tunstall
Title: Office Manager