

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF)	
)	
CHEROKEE COUNTY)	
Public Employer)	
)	
and)	CASE NO. 8110
)	
INTERNATIONAL UNION OF OPERATING)	
ENGINEERS, LOCAL 234)	
Petitioner/Certified)	
Employee Organization)	
)	

PROPOSED DECISION AND ORDER

Statement of the Case

This case concerns an amendment of bargaining unit petition filed by the International Union of Operating Engineers, Local 234 (Union). The Union seeks to amend an existing bargaining unit represented by the Union to include the job classifications of assistant to the engineer and office manager. Cherokee County (County) contends that the assistant to the engineer is a manager and supervisor under section 4.2 of the Public Employment Relations Act (Act). The County contends that the office manager is a confidential employee and manager under sections 3.3, 4.2 and 4.3 of the Act.

A public hearing was held on April 10, 2009, at which the County and Union were provided a full opportunity to present written evidence and testimony. Post-hearing briefs were received by May 26, 2009.

the issue in this case due to the case-by-case analysis required to determine a job classification's bargaining unit status.

The written job descriptions for the assistant to the engineer and office manager are informative, but they do not control the bargaining unit status of these jobs because job descriptions can cloak an employee's actual job duties and responsibilities, which are best established through other credible evidence. For example, the job description for assistant to the engineer states that the assistant to the engineer "negotiates special provisions of construction contracts with contractors." Yet, there is no evidence showing how Jenness' authority to negotiate with contractors affects Departmental policy. Likewise, a reasonable conclusion cannot be made that Office Manager Janet Cedar is a manager under the Act without evidence showing how the office manager's job description to perform payroll functions, for example, are linked to the County's collective bargaining relationship with the Union.

Based on the foregoing, the following is issued:

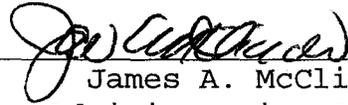
ORDER

The bargaining unit currently represented by the International Union of Operating Engineers, Local 234, and originally certified in Board Case No.707 and subsequently amended in Board Case Nos. 5527 and 7271, is amended to read as follows:

INCLUDED: Construction Tech I and II, Assistant to the Engineer, Office Manager, and all operating and maintenance workers in the Cherokee County Secondary Road Department.

EXCLUDED: All foremen, all engineering staff except for Construction Tech I and II, and those excluded by Section 4 of the Act.

DATED at Des Moines, Iowa, this 10th day of July, 2009.



James A. McClimon
Administrative Law Judge

cc: MacDonald Smith
Steven M. Nadel

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

RECEIVED
2006 MAY 31 AM 8:53
PUBLIC EMPLOYMENT
RELATIONS BOARD

CHEROKEE COUNTY,)	
Public Employer,)	
)	
and)	CASE NO. 7271
)	
INTERNATIONAL UNION OF OPERATING)	
ENGINEERS, LOCAL 234,)	
Certified Employee)	
Organization.)	

AMENDMENT OF CERTIFICATION

A petition for amendment of certification was duly filed under Rules 4.8 of the Public Employment Relations Board [Board or PERB] Rules. Said petition has been tentatively approved by the Board; a Public Notice of Proposed Decision of Amendment of Certification has been posted in conformance with PERB rules; and no objections have been filed, therefore:

IT IS THEREFORE ORDERED that the certification of Cherokee County Secondary Roads Employees' Association, issued in Case No. 707 and amended in Cases No. 5527, is amended to read as follows:

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 234

DATED at Des Moines, Iowa this 31st day of May, 2006.

PUBLIC EMPLOYMENT RELATIONS BOARD

By: James R. Riordan
James R. Riordan, Chair

cc: Kevin Holzhauser
Bonnie Ebel
John Schwartz

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

FILED
97 JAN 14 AM 11:03
PUBLIC EMPLOYMENT
RELATIONS BOARD

CHEROKEE COUNTY, IOWA,)	
Public Employer,)	
)	
and)	CASE NO. 5527
)	
CHEROKEE COUNTY SECONDARY ROAD)	
EMPLOYEES ASSOCIATION,)	
Certified Employee)	
Organization/Petitioner.)	

AMENDMENT OF BARGAINING UNIT AND CERTIFICATION

Upon a petition for amendment of bargaining unit duly filed under Section 13 of the Public Employment Relations Act [Act], Chapter 20, Iowa Code (1995) and Rule 4.6 of the Public Employment Relations Board [Board or PERB], the parties filed with the Board a Stipulation of Bargaining Unit. Said Stipulation was tentatively approved by the Board and adds the positions of Construction Tech I and Construction Tech II to the existing list of positions specifically included in the bargaining unit; a Public Notice of Proposed Decision of Amendment of Bargaining Unit was posted in conformance with PERB Rules; and no objections were filed, therefore:

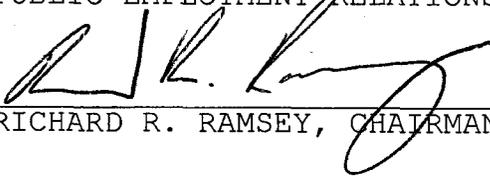
IT IS THEREFORE ORDERED that the bargaining unit previously determined in Case No. 707, and the certification of Cherokee County Secondary Road Employees Association, is amended to read as follows:

INCLUDED: Construction Tech I and II, and all operator and maintenance workers in the Cherokee County Secondary Road Department.

EXCLUDED: All foremen, all engineering staff except for Construction Tech I and II, and those excluded by Section 4 of the Act.

DATED at Des Moines, Iowa this 14th day of January, 1997.

PUBLIC EMPLOYMENT RELATIONS BOARD



RICHARD R. RAMSEY, CHAIRMAN

cc: Michael L. Smith
Jim Hanks

STATE OF IOWA
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

CHEROKEE COUNTY,
PUBLIC EMPLOYER

AND

CHEROKEE COUNTY SECONDARY ROAD
EMPLOYEES ASSOCIATION,
PETITIONER

CASE NO. 707

ORDER OF CERTIFICATION

NOW, on this 19th day of June 1978, the Board being advised that an election was conducted pursuant to Order of the Board, and that a majority of the ballots were cast for Cherokee County Secondary Road Employees Association, an employee organization; and the Board being further advised that said employee organization has complied with all requirements of the Act and the rules and regulations thereunder;

IT IS HEREBY ORDERED that Cherokee County Secondary Road Employees Association, should be, and hereby is, designated and certified by this Board to be the exclusive bargaining representative for the employees of Cherokee County, a public employer, in the following bargaining unit:

INCLUDED: All operators and maintenance workers in the Cherokee County Secondary Road Department.

EXCLUDED: All foremen, engineering staff and those excluded by Section 4 of the Act.

DONE by the Public Employment Relations Board this 19th day of June, 1978, in Des Moines, Iowa.



VERNON C. COOK, BOARD MEMBER