

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

CITY OF MARION,)	
)	
PUBLIC EMPLOYER)	
)	
AND)	
)	CASE NO. 3135
MARION POLICEMAN'S PROTECTIVE ASSOCIATION,)	
)	
CERTIFIED EMPLOYEE ORGANIZATION)	

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 and Rule 4.6 of the Public Employment Relations Board's Rules and Regulations, the parties waived hearing and filed with the Board a Stipulation of Bargaining Unit.

Said Stipulation having been tentatively approved by the Board and posted in conformance with the Board's Rules and Regulations, and no objections having been filed thereto:

ORDER

IT IS HEREBY ORDERED that the bargaining unit previously determined in Case Nos. 567, 1740 and 1881, be and hereby is, amended to read as follows:

INCLUDED: Probationary patrol officer, patrol officer, detectives, and Police Department communications operators.

EXCLUDED: Chief of police, captain, sergeant, lieutenant, reserve police officer, and all other persons excluded by Section 4 of the Act.

DATED at Des Moines, Iowa this 6th day of June, 1986.

PUBLIC EMPLOYMENT RELATIONS BOARD



JAMES A. McCLIMON, BOARD MEMBER

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PUBLIC EMPLOYMENT RELATIONS BOARD

_____)
 LT. DON TURNER, LT. TOM WALDERBACH,)
 SGT. WILLIAM LONG, SGT. GORDON DOLLEY,)
 SGT. ELLIS BUSSE,)
 PETITIONERS)
)
 AND)
)
 CITY OF MARION,)
 PUBLIC EMPLOYER)
)
 AND)
)
 MARION POLICEMEN'S PROTECTIVE)
 ASSOCIATION,)
 EMPLOYEE ORGANIZATION)
 _____)

CASE NO. 1740

DECISION ON APPEAL

This case came on for consideration by the Public Employment Relations Board (hereinafter the Board) on December 15, 1981, on an appeal filed by the Marion Policemen's Protective Association (hereinafter the Association). The Association seeks reversal of a recommended decision and order of Hearing Officer Susan K. Schreurs which excluded from the bargaining unit the positions of lieutenant and sergeant. In this appeal, it is the position of the Association that sergeants are non-supervisory employees and should be included within the bargaining unit pursuant to §13, of the Public Employment Relations Act (hereinafter the Act).

At the original hearing the Public Employer (hereinafter the City) was represented by Brian L. Gruhn, Gary L. Ray and Donald Hoskins. The Petitioners appeared pro se, except for Lt. Walderback who was not in attendance. Doug Hart and Linda Clark appeared on behalf of the Association. On appeal the parties submitted the case on the basis of the record and positions before the hearing officer.

STATEMENT OF THE CASE

The Petitioners in this action filed a unit clarification petition seeking to exclude from the existing police bargaining unit the positions of lieutenant and sergeant on the basis that they are supervisory employees. At hearing the City moved to amend the pleadings to reflect that the proceedings involved an amendment of unit rather than a unit clarification. The City also moved to be substituted as the Petitioner. The amendment to the pleadings and substituting the City as Petitioner was granted by the hearing officer over the objection of the Association.

The City alleges that the following constitutes an appropriate unit for purposes of collective bargaining:

INCLUDED: Probationary Patrolmen, Patrolmen, and Detective.

EXCLUDED: Captain, Chief, Lieutenant and Sergeant and all other employees excluded from Section 4 of the Act.

FINDINGS OF FACT

The Board has reviewed the record, the specific findings of the hearing officer, and considered the positions of the parties made at the hearing. On the basis of the record as presented to the hearing officer as well as the briefs of the parties on appeal, we adopt and affirm the findings of fact set forth in the Recommended Decision and Order.

CONCLUSIONS OF LAW

On appeal, the Association states two grounds for reversal of the hearing officer's decision, which are set forth as follows:

1. The hearing officer acted improperly by allowing the Employer's Motion to Amend the Petitioner's request for a Clarification of Bargaining Unit to a request for an Amendment of Bargaining Unit.

2. That the hearing officer disregarded a preponderance of evidence to the contrary in ruling the position of sergeant in the Marion Police Department

to be supervisory.

In regard to the first ground of alleged error, it is the determination of this Board that allowing the City to amend their petition was proper. A unit clarification petition, as originally filed, was inappropriate as the unit description designates sergeants and lieutenants as employees within the unit. There is, in fact, nothing to clarify. Accordingly, an amendment of unit petition was necessary to consider the question of the supervisory status of employees. Good cause was shown by the City at hearing to justify the amendment and the hearing officer did not abuse her discretion in allowing it.

The second alleged error asserted by the Association is that the record does not support a finding that sergeants are supervisory employees. However, a review of the record, when considered with case law precedent, supports the conclusion of the hearing officer that sergeants in this particular department have the requisite authority to be classified as supervisors under Section 4(2) of the Act. The hearing officer's Conclusions of Law are hereby adopted and affirmed.

ORDER

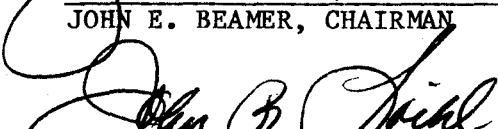
On the basis of the foregoing, the hearing officer's decision is affirmed, and the appeal is dismissed.

Dated at Des Moines, Iowa this 18th day of February, 1982.

PUBLIC EMPLOYMENT RELATIONS BOARD



JOHN E. BEAMER, CHAIRMAN



JOHN R. LOIHL, BOARD MEMBER



PETER L. J. PASHLER, BOARD MEMBER

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

_____)	
IN THE MATTER OF:)	
CITY OF MARION,)	CASE NO. 1881
Public Employer)	
and)	
MARION POLICE PROTECTIVE)	(Amending Case No. 567)
ASSOCIATION,)	
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 and Rule 4.6 of the Public Employment Relations Board's Rules and Regulations, the parties waived hearing and filed with the Public Employment Relations Board a stipulation of bargaining unit.

Said stipulation having been tentatively approved by the Board and posted in conformance with the Board's Rules and Regulations, and no objections having been filed thereto, and the Board having no objections;

ORDER

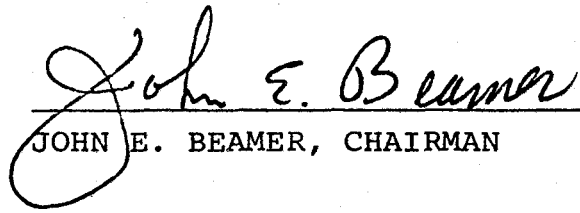
IT IS HEREBY ORDERED that the bargaining unit previously determined in Case No. 567 and the certification of the Marion Policemen's Protective Association in that case be and hereby are amended to read as follows:

INCLUDED: All civil service employees of the Marion, Iowa Police Department, including Patrolman, Juvenile Officer, Identification Officer, Detective, Sergeant, Lieutenant and police department communications operators.

EXCLUDED: Chief of Police, Assistant Chief of Police, Captain, part-time Police Officer, Auxiliary Police Officer, and all other persons excluded by Section 4 of the Act.

DONE at Des Moines, Iowa this 4th day of March, 1981.

PUBLIC EMPLOYMENT RELATIONS BOARD



JOHN E. BEAMER, CHAIRMAN

STATE OF IOWA

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:)
CITY OF MARION, IOWA,)
PUBLIC EMPLOYER)
AND)
MARION POLICEMEN'S PROTECTIVE)
ASSOCIATION,)
PETITIONER)

CASE NO. 567

ORDER OF CERTIFICATION

NOW on this 15th day of March 1976, the Board being advised that an election was conducted pursuant to Order of the Board, and that Marion Policemen's Protective Association an employee organization, received an affirmative vote of the majority of employees in the bargaining unit, and the Board having further found that the employee organization has fully complied with all regulations of the Act and the rules and regulations thereunder,

IT IS HEREBY ORDERED BY THE BOARD that Marion Policemen's Protective Association should be, and hereby is, designated and certified by this Board to be the exclusive bargaining representative for the employees of City of Marion, Iowa a public employer, in the following bargaining unit:

INCLUDED: All civil service employees of the Marion, Iowa Police Department, including Patrolman, Juvenile Officer, Identification Officer, Detective, Sergeant, and Lieutenant.

EXCLUDED: Chief of Police, Assistant Chief of Police, Captain, part-time Police Officer, Auxiliary Police Officer, and all other persons excluded by Section 4 of the Act.

DONE by the Public Employment Relations Board



John R. Loih Board Member