



NH Supreme Court  
reversed this decision on  
September 16, 1993, Slip  
Op. No. 92-275.

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

PROFESSIONAL FIREFIGHTERS OF	:	
EAST DERRY, LOCAL 3353, IAFF	:	
	:	
Petitioner	:	CASE NO. F-0142
	:	
v.	:	DECISION NO. 92-46
	:	
TOWN OF EAST DERRY	:	
	:	
Respondent	:	
	:	

APPEARANCES

Representing Local 3353, I.A.F.F.:

Glenn R. Milner, Esq., Counsel

Representing East Derry Fire Precinct:

Harry Gale, Consultant

Also appearing:

Kelley A. Collins, Fire Dept.  
Arthur Reynolds, Fire Chief  
Leigh D. Barry, Commissioner  
Dana Pendergast, Local 3353  
Towy Stowers, Local 3353  
Nancy Rubino, Local 3353  
Fred Priestly, Local 3353  
Jim Saulnier, Local 3353

BACKGROUND

On October 17, 1991, the Professional Firefighters of East Derry, Local 3353, filed a Petition for Certification for firefighters (6), lieutenants (2), captains (1) and clerk/dispatcher (1), specifically excluding the Chief as supervisory and the Administrative Assistant as confidential. On

October 28, 1991, the East Derry Fire Precinct by its representative, Harry S. Gale, filed objections to the foregoing petition, claiming it did not meet the requirements of RSA 273-A:8 (I) and (II) and seeking that it be dismissed. The matter was set for and heard by the Board on February 18, 1992.

FINDINGS OF FACT

1. All the petitioned-for positions are employed by the East Derry Fire Precinct/Town of East Derry which is a public employer as defined by RSA 273-A:1.
2. None of the petitioned-for positions has supervisory authority involving the significant exercise of discretion over other employees in the petitioned-for bargaining unit such as to warrant exclusion under RSA 273-A:8. Fire officers, as well as any employee, may file a Significant Incident Report which may be positive or negative in nature. Captains and lieutenants have the responsibility for inspecting personnel and facilities, staffing levels, relieving unfit personnel in the absence of the chief, conducting roll call, and being responsible for a fire scene in the absence of a more senior officer. They may issue warnings to subordinate employees; however, they have no ultimate authority to hire, fire, impose discipline, promote or award raises.
3. The captain, lieutenant and clerk/dispatcher positions are shift positions similar to the firefighters. The clerk/dispatcher position was eliminated after the filing of the petition in this case but remains under consideration as of the time of the filing of the petition.
4. The captain and lieutenant positions are interchangeable (by function and stipulation) and act as lead officers or working foremen on shifts. They work with firefighters, handle lines, operate equipment, and report to the chief, an excluded position. The clerk/dispatcher reported to the administrative assistant, an excluded position. One of the elements of the lieutenant's job description requires lieutenants to "perform all the functions of a firefighter" as well as permits the senior firefighter to serve

as the officer in charge in the absence of a lieutenant or captain.

5. There are no distinguishing characteristics between the methods of compensating employees and/or their respective fringe benefits such as to find that the petitioned-for positions lack a community of interest. Essentially, all petitioned-for employees have the same conditions of employment (except that the clerk-dispatcher does not go to the fire scene), function within the same organizational unit and have a self-felt community of interest.

ORDER

Based on the foregoing, the Board finds as follows:

The appropriate bargaining unit under RSA 273-A:8 shall consist of the positions of firefighter, lieutenant, captain, and clerk/dispatcher.

EXCLUDED are: Chief and Administrative Assistant.

So Ordered.

Signed this 6th day of March, 1992.

  
EDWARD J. HASELTINE  
Chairman

Chairman Edward J. Haseltine presiding. Members Seymour Osman and E. Vincent Hall present and voting.