

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

In the Matter of:

CITY OF LANSING,
Public Employer,

Case No. UC00 B-4

-and-

TEAMSTERS LOCAL 580,
Petitioner-Labor Organization,

-and-

UAW LOCAL 2256,
Intervenor-Labor Organization.

APPEARANCES:

John A. Bensinger, City of Lansing Labor Relations Dept., for the Employer

Mike Parker, Business Agent, Teamsters Local 580, for Petitioner

Leon Hilton, President, UAW Local 2256, for the Intervenor

DECISION AND ORDER

This case was heard at Detroit, Michigan on June 30, 2000, before Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission. Pursuant to Section 13 of the Public Employment Relations Act (hereafter "PERA"), 1965 PA 379, as amended, MCL 423.213; MSA 17.455(13), and based upon the record, including briefs filed by the Employer and the Intervenor on or before August 4, 2000, the Commission finds as follows:

The Petition and Positions of the Parties:

The petition was filed on February 1, 2000, by Teamsters Local Union 580, and amended on March 5, 2000. Petitioner seeks to represent a position titled Electrical Maintenance Worker (hereafter "EMW") 500. The position is currently included in a bargaining unit represented by Intervenor UAW Local 2256.

Petitioner represents a unit of nonsupervisory clerical, technical, and professional employees of the City of Lansing. Petitioner also represents a bargaining unit of supervisors employed by the same Employer. Intervenor's bargaining unit consists of certain nonsupervisory classifications

employed by the City. Most, but not all, of the positions in Petitioner's unit perform either maintenance or mechanic's work.

In its February 1, 2000 petition, Petitioner asserts that the EMW is a supervisory position and should be placed in Petitioner's supervisory unit. In its amended petition, Petitioner contends that even if the EMW is found not to be a supervisor, it should be moved to Petitioner's unit of clerical, technical, and professional employees (hereafter "CTP"). Petitioner maintains that the EMW 500 has undergone a recent, substantial change in job duties, as demonstrated by the fact that the position now requires a journeyman level (Class I) electrician's license. According to Petitioner, the EMW is now a technical position.

The Employer and the Intervenor contend that the EMW position was created in 1996, and that the duties of the position have not changed. According to the Employer and the Intervenor, the position has always required a Class I electrician's license, and Petitioner has known for many years that the position requires a license. The Employer and the Intervenor both maintain that the EMW position is neither technical nor professional. The Employer and the Intervenor also deny that the EMW is a supervisor within the Commission's definition of that term.

Facts:

The building maintenance division of the Employer's Department of Management Services performs repairs and maintenance in the majority of buildings owned by the City of Lansing. Approximately 12 employees in this division work out of a location on Hazel Street. About seven of these employees, including the EMW, are included in Intervenor's bargaining unit. Several positions included in the CTP unit also work at this location. Among these is the position Electrician 31/33, also known as electrical supervisor. This position requires a Master, or Class II electrician's license. The EMW is required to possess a journeyman, or Class I, electrician's license. The electrical supervisor oversees the work of the EMW and performs functions which require a Class II license, such as pulling work permits. Employees in the building maintenance division with the title Facility Maintenance Worker (hereafter "FMW") are assigned on a daily basis to do electrical, plumbing, carpentry, or general maintenance work. The FMWs are in Intervenor's unit. When an FMW is assigned to assist the electrical supervisor or the EMW, these positions oversee the FMW's work.

FMW applicants take a test before they are hired. The EMW, like many other employees in the building maintenance division, suggests areas of knowledge which he believes should be covered by the test. The EMW does not interview applicants or give his opinion on who should be hired. He does not approve time off for the FMWs or evaluate them. The Senior Building Maintenance Supervisor is the only individual in the division with the authority to discipline.

The EMW position was created in 1996 after an FMW requested a pay reclassification. Positions in Intervenor's unit are grouped into six pay classification levels - 100 through 600. In 1995, Chuck Shaffer, an FMW 300 in the building maintenance division, acquired a Class I electrician's license. Shortly thereafter, Shaffer requested a classification upgrade. In his reclassification questionnaire, Shaffer described his job as electrical maintenance, electrical preventive maintenance, electrical project pricing, electrical inventory, and coordination of electrical work with work performed by other skilled trades crews. After investigating Shaffer's request, the Employer

created a new title, EMW. In May 1996, Shaffer was reclassified from FMW 300 to EMW 400. His position remained in Intervenor's unit. However, the EMW classification was never added to the listing of positions in the unit contained in Appendix A of Intervenor's contract.

A job description for the EMW 400 position was issued by the Employer's personnel department on August 29, 1998. Insofar as the record discloses, this was the first written job description for the EMW position. The job description stated that the position required four years of experience as a journey level electrician and a Class I electrician's license. Among the **A**knowledge, skills and abilities[@] required for the job was listed the **A**bility to supervise and train others.[@] According to the job description, the essential functions of the job include **A**training and necessary oversight to subordinates assisting in electrical work . . . and assists in the interviewing and hiring of personnel.[@]

In April of 1998, the Employer and the Intervenor entered into a collective bargaining agreement for the term October 2, 1997 through October 1, 2000. In this contract, the number of **A**Hay points[@] required for the 500 and 600 level pay classifications was lowered, effective October 1, 1998. Pursuant to that agreement, the EMW automatically became a 500 level position on October 5, 1998.

Shaffer resigned from the EMW position effective December 20, 1999. The position was posted as a vacancy on or about December 14, 1999. This posting included the electrician's license requirement and the skills and functions listed in the 1998 job description. After the vacancy was posted, Petitioner filed the instant petition. Respondent later removed the **A**bility to supervise others[@] language from the posting and replaced it with the **A**bility to provide work direction and train others.[@] The position was filled in April of 2000.

Petitioner's CTP unit currently includes two positions which require an electrician's license. One is the electrical supervisor in the building maintenance division. The second position, Electrical Inspector 33, works in the Planning Department. The function of this position is to inspect housing and building plans to insure that they meet electrical codes. In addition, the International Association of Fire Fighters represents a position which requires a Class I electrician's license. This position, Maintenance/Alarm Specialist III, repairs and installs alarm systems, fire fighting equipment and other equipment in the Fire Department. The CTP unit also includes one position for which an electrician's license is preferred, although not required. This position is responsible for the repair and maintenance of electronics instrumentation at the City's wastewater treatment plant. One CTP position in the building maintenance division requires a master plumber's license.

The EMW position is the only position in Intervenor's unit which currently requires an electrician's license. However, several other positions in Intervenor's unit require licenses or certification. Examples include Forestry Worker 500 and Greenskeeper 500, both of which require a pesticide applicator's license, and Wastewater Plant Operator 500, which requires that the incumbent have previously held the position or possess a Class D sewage plant operator's license.

Discussion and Conclusions of Law:

The EMW directs the work of FMWs when they are assigned to assist him. There is no evidence that the EMW has any authority with respect to the hiring, evaluation, promotion, discipline or discharge of employees in either Petitioner's or Intervenor's unit. We have long held that an individual is not a supervisor under PERA if his or her authority is limited to directing the daily work of other employees and/or making work assignments of a routine nature. *City of Detroit*, 1996 MERC Lab Op 285; *Detroit Dept of Parks and Recreation*, 1966 MERC Lab Op 661. Therefore, we conclude that the EMW is not a supervisor under PERA and does not belong in Petitioner's supervisory unit.

According to the Employer and the Intervenor, the petition to move the EMW to Petitioner's CTP unit is untimely. They assert that the EMW position was created in 1996, and that it has not changed since that time. They also argue that Petitioner, in the person of its steward Cole, knew by at least early 1998 that the EMW position required a Class I electrician's license. Petitioner, however, denies that it learned that the license was a requirement of the job until the position was posted as vacant in December of 1999.

There is no evidence in the record of any change in the job duties of the EMW since 1996. Moreover, the record indicates that the duties of the position were substantially the same when they were performed by an FMW. It is clear that Petitioner's request to move the position to its CTP unit is based solely on the fact that the job requires a Class I electrician's license. According to Petitioner, because the EMW requires an electrician's license, it is a technical position. Therefore, Petitioner maintains, the EMW should be in Petitioner's CTP unit.

We do not alter established bargaining units without a compelling reason. *Michigan State University*, 1978 MERC Lab Op 1201, 1207-1208; *City of Saginaw (Civic Center)*, 1974 MERC Lab Op 545, 549. In this case, Petitioner's unit is described as including all technical employees, while Intervenor's unit is defined by classification title. Petitioner asserts that because the EMW position requires an electrician's license, it is a technical position. Both units, however, include positions which require a variety of different licenses. We find that the EMW shares a community of interest with both units based on similarities in duties, skills, and working conditions, common supervision, and day-to-day contact. Where a position shares a community of interest with more than one bargaining unit, and conflicting claims are made regarding it, we will defer to an employer's good faith decision to place the position in one of these units. *Henry Ford CC*, 1996 MERC Lab Op 374,380; *Washtenaw Co*, 1995 MERC Lab Op 688; *Lakeview Schools*, 1988 MERC Lab Op 424. We conclude that the EMW's existing placement in Intervenor's unit should not be disturbed. We need not, therefore, resolve the question of when Petitioner learned that the position required an electrician's license, or whether it acquiesced to the position's continued placement in Intervenor's unit. In accord with our findings, we issue the following order:

ORDER

Petitioner's request to clarify its supervisory or clerical, technical, and professional employee bargaining units to include the position Electrical Maintenance Worker 500 is hereby denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: _____