

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

CITY OF DETROIT (AIRPORT POLICE),
Public Employer,

Case No. UC00 E-18

-and-

TEAMSTERS STATE, COUNTY & MUNICIPAL
WORKERS, LOCAL 214,
Labor Organization – Petitioner.

APPEARANCES:

City of Detroit Law Department, by Valerie Colbert-Osamuede, Esq., for the Public Employer

Rudell & O’Neill, P.C., by Wayne A. Rudell, Esq., for the Petitioner

DECISION AND ORDER ON UNIT CLARIFICATION

Pursuant to Sections 12 and 13 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212 and 423.213, this case was heard in Detroit, Michigan, on April 16, and May 11, 2001, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. Petitioner filed a post-hearing brief on August 16, 2001. The City of Detroit did not file a brief. Based on the record and Petitioner’s post-hearing brief, we find as follows:

Petitioner Teamsters State, County & Municipal Workers, Local 214, and the City of Detroit are parties to a collective bargaining agreement that covers the terms of employment and working conditions of various employees who are not covered by the compulsory arbitration provisions of Act 312, 1969 PA 312, as amended, MCL 423.231 – 423.247. Airport police officers employed by the City’s airport department are currently included in Petitioner’s bargaining unit.

On May 17, 2000, Petitioner filed this petition to create a separate Act 312 bargaining unit of airport police officers.¹ At the hearing, the Employer contended that the airport police officers are not employed by a critical-service department and therefore are not eligible for inclusion in an Act 312 bargaining unit.

1. Petitioner’s request for severance is not appropriate in a unit clarification case and, therefore, could have been dismissed administratively. Typically, an Act 312 unit clarification case would arise after 312 arbitration has been requested and the employer objects to certain classifications in the bargaining unit being considered by the Act 312 arbitrator. See *County of Macomb* 1991 MERC Lab Op 542, 544 n 1. That is not the case here. Since a record was made in this matter, we will make a determination as to the Act 312 eligibility of the airport police officers. However, a severance could only be accomplished by the filing of a proper representation petition.

Act 312-eligible employees, unlike other public employees, are entitled to have disputes arising out of their employment submitted to binding arbitration. Act 312 eligibility is limited to employees who are subject to the hazards of police work and fire fighting, and who are employed in a critical-service department whose function is to promote public safety, order and welfare so that a work stoppage in that department would threaten community safety. *Metropolitan Council No. 23, AFSCME v Oakland Co Prosecutor*, 409 Mich 299 (1980).

Neither party seriously disputes that the airport police officers may be subject to hazards of police work or that the airport department is not a police or fire department. A May 2, 1997 letter of understanding between the parties provides that:

The Chief of Police, through the authority vested in him by the Charter of the City of Detroit (1974) Section 7-1117, shall commission as Patrolmen those members of the Airport Law Enforcement Unit known as “Airport Police Officers” who are employees of the Airport Department and not employees of the Police Department. In addition to such rules and regulations promulgated by the Airport Department, Detroit City Airport, all Airport Police Officers shall adhere to the following rules and regulation contained in this Letter of Understanding.

The airport department prepares, operates and administers its own budget. Petitioner, however, argues that the Act 312 eligibility of airport police officers should not be defeated by the Chief of Police’s discretion to place their labor costs in a department other than the police department while retaining control over them.

Petitioner’s claim that the airport police officers are Act 312-eligible requires little comment. The rationale adopted by the court of appeals in *POAM v Lake County*, 183 Mich App 558 (1990), *lv den* 437 Mich 894 (1991), regarding the Act 312 eligibility of emergency medical service (EMS) employees who were not employed by a fire or police department, applies with equal force to police officers who are not employed by a police department. There, Lake County and Montcalm County appealed decisions by MERC holding that the EMS employees should not be excluded from Act 312 eligibility merely because the employers chose to run their respective EMS departments apart from their respective sheriff or fire departments. The employees in question were employed by the Lake County ambulance department and the Montcalm County medical services department. The court of appeals, considering the statute’s unambiguous language, found that Act 312 eligibility applied only to emergency medical service (EMS) employees employed by a fire or police department.

In *Mich FOP v Kent County*, 174 Mich App 440 (1989), *rev’g* 1987 MERC Lab Op 768, the court found airport security officers, and crash, fire and rescue equipment operators employed by the Kent County department of aeronautics were not Act 312 eligible because the department’s primary function did not involve the promotion of public safety, order and welfare such that a work stoppage would threaten community safety. The airport police officers employed by the City of Detroit’s airport department, like the airport security officers in *Kent County*, are not Act 312 eligible because the airport department’s primary function does not involve promoting public safety, order and welfare. We have carefully considered all other arguments raised by Petitioner and conclude that they do not warrant a change in the result.

Order

For the reasons set forth above, the petition filed by Teamsters State, County and Municipal Workers, Local 214 is hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chairman

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Date: _____