

FILED

JAN 16 2008

Public Employees Relations  
Board

BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD  
STATE OF OKLAHOMA

IN RE: Petition to Decertify IAFF,                     )  
LOCAL 2962, City of Broken Bow                     )                     Case No. 12417-D

**ORDER**

This matter came on for hearing before the Public Employees Relations Board (the "Board") on the 10th day of January, 2008, on the Objections to Election filed by the International Association of Firefighters, Local 2962 (the "Union" or "Local 2962"), the Motion to Recognize Bargaining Representative filed by the Union, the Motion to Strike IAFF, Local 2962's Motion to Recognize Bargaining Representative filed by the City of Broken Bow, Oklahoma (the "City"), the Motion to Strike all Challenges to Ballots, and to Unseal and Count the Challenged Ballots filed by the City, and the Union's Response to Motion to Strike. The City appeared by and through its attorneys, Frank B. Wolfe, III and D. Kenyon Williams, Jr. The Union appeared by and through its attorney, Everett Bennett.

On October 9, 2007, a Decertification Petition was filed by Ray Butler to decertify the Union. On November 8, 2007, the decertification election was held.

The Union argued that because Butler was the Assistant Fire Chief of the City, he was, therefore, "an administrative assistant" as defined by 11 O.S. 2001 § 51-102(1) and could not be included in the bargaining unit. Because he was not part of the bargaining unit, he could neither file for decertification nor participate in the election. The City argued that it had not designated "an administrative assistant" and asked the Board to strike the challenges to and count the ballots.

By Order dated October 31, 2007, filed in International Association of Firefighters, Local 2962 v. City of Broken Bow, Oklahoma, Case No. 00446, the Board held that the plain meaning of

the statutory language "an administrative assistant" in 11 O.S. 2001 § 51-102(1) is that the fire chief does not have a mandatory duty to designate an administrative assistant. Rather, the fire chief has the prerogative to designate an administrative assistant.

The Board concludes that the City has not designated Butler "an administrative assistant" and, therefore, he is a member of the unit.

After the Board's ruling, at the hearing, the Board's Administrator opened and counted the ballots. The election results were that three firefighters voted for decertification and three firefighters voted against decertification.

The parties are directed to brief the following issues: (i) whether a three to three vote is sufficient to decertify the union, and (ii) whether a free and untrammelled election could have been conducted. The parties are to include in their briefing of the latter issue a factual and legal discussion of all of the unfair labor practices raised by the Union.

Dated: January 16, 2008

  
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Craig W. Hoster, Chair  
Public Employees Relations Board