

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. DC-021-09

(PETITION FOR DECERTIFICATION OF REPRESENTATIVE)

NEVA COON and EMPLOYEES OF)
THE CITY OF HALFWAY,)
)
Petitioners,)
)
v.)
)
CARPENTERS INDUSTRIAL COUNCIL)
LOCAL UNION NO. 1017,)
)
Respondent.)
_____)

ORDER DISMISSING
PETITION

On July 8, 2009, Neva Coon (Petitioner) filed this petition for decertification on behalf of employees of the City of Halfway (City). The petition asserts that Carpenters Industrial Council Local Union No. 1017 (Union) no longer represents a majority of employees in the bargaining unit. ORS 243.682(1)(b)(D). The petition is supported by a showing of interest signed by three bargaining unit members. Petitioner represents that there are three members in the bargaining unit. She further represents that the most recent collective bargaining agreement between the City and the Union expired on June 30, 2009.¹ The petition includes relevant portions of the expired agreement.

The Union is the exclusive representative of a bargaining unit of City employees. The expired agreement describes the unit as:

“* * * [A]ll permanent full-time and permanent part-time employees employed by the Employer, (City of Halfway, Oregon), excluding

¹ All dates are 2009 unless otherwise specified.

supervisors, City Manager, commissioned employees of the Police Department and Fire Department and elected city officials.”

On July 8, this Board’s Elections Coordinator served the petition by certified mail on the City and on the Union’s representative. She also sent a copy of the mailing to the Western Council of Industrial Workers. The City certified that, on July 13, it posted the required Board notices entitled “Decertification Election Has Been Requested.” OAR 115-025-0030(1).

The Union had until July 28 to file objections to the petition. On July 20, the certified mailing the Elections Coordinator sent to the Union’s representative was returned by the U.S. Postal Service as “unable to forward.” On July 20, the Elections Coordinator forwarded the mailing to the Western Council of Industrial Workers and requested that it forward the information or respond to the letter. On July 27, the Union’s representative e-mailed the Elections Coordinator and attached a letter disclaiming the Union’s interest in representing the bargaining unit.

DISCUSSION

ORS 243.682(1)(b)(D) permits a public employee or a group of public employees to petition for decertification if 30 percent of the employees in the bargaining unit “assert that the designated exclusive representative is no longer the representative of the majority of the employees in the unit.” *See also* OAR 115-025-0000(1)(d). When a valid petition has been filed without objection *and a question of representation exists*, this Board orders an election under the procedures set forth in OAR 115-025-0060.

Here, however, because the Union has disclaimed interest in the bargaining unit, there is no question of representation. OAR 115-025-0060(3) provides that “[a] labor organization may request in writing to have its name removed from the ballot disclaiming any representation interest for the employees in the unit.” *See also* OAR 115-025-0009 (Board will revoke certification or recognition if no collective bargaining agreement is in effect and the labor organization disclaims interest in the unit). The Union has provided this Board with a disclaimer. As a result of its disclaimer, the Union no longer represents the employees. The petition to decertify the Union as the employees’ exclusive representative is thus rendered moot.

An election ballot gives employees the option to vote for a union candidate or for no representation. ORS 243.686; OAR 115-025-0060(4). Because the Union has disclaimed interest, it will not appear on the ballot, and there can be only one choice remaining on the ballot: “no representation.” The Union does not represent the

employees and does not wish to do so. Because there is no question as to who represents the City employees, this petition must be dismissed. See ORS 243.682(1), (4) (requiring an election only if there is a question of representation); *Christine L. Clark and Employees of Curry General Hospital v. Oregon Nurses Association*, ERB Case No. DC-57-07, 17 PECBR 491 (1998); *Kathleen M. Henderson and Employees of Oakridge Police Department v. Teamsters Local 223*, ERB Case No. C-220-83, 7 PECBR 6093 (1983).

ORDER

The petition for decertification is dismissed.

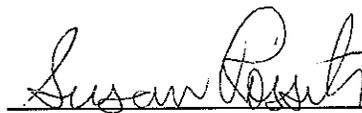
DATED this 25th of August 2009.



Paul B. Gamson, Chair



Vickie Cowan, Board Member



Susan Rossiter, Board Member

This Order may be appealed pursuant to ORS 183.482.