

F.L.R.A.

OFFICE OF HEARINGS AND APPEALS SOCIAL SECURITY ADMINISTRATION, Activity  
and  
NATIONAL TREASURY EMPLOYEES UNION, Labor Organization/Petitioner  
and  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL—CIO, Labor Organization/Incumbent

Case No. 3-RO-20005  
October 31, 1984

DECISION ON REQUEST FOR REVIEW

The Petitioner's request for review seeks reversal of the Regional Director's dismissal of its representation petition filed with the Authority under section 7111 of the Federal Service Labor-Management Relations Statute (the Statute), in which it sought to represent a unit of Attorneys (series 905) who are currently a part of an existing consolidated bargaining unit of the Social Security Administration exclusively represented by the American Federation of Government Employees, AFL—CIO (the Incumbent). In seeking their severance from the consolidated bargaining unit, the Petitioner contends that the Office of Hearings and Appeals Attorneys<sup>1</sup> are an appropriate unit within the meaning of section 7112(a)(1) of the Statute, and that the Incumbent has failed to properly represent the petitioned for employees in the consolidated bargaining unit. In support of its contention, the Petitioner submitted affidavits from Attorneys in the petitioned for unit.

The Regional Director dismissed the petition, noting particularly that the Petitioner had submitted an insufficient showing of interest based on the number of employees in the consolidated bargaining unit and, further, that the evidence was "insufficient to support a failure to represent on the part of the incumbent or otherwise support the Petitioner's contention that the unit is no longer appropriate for purposes of collective bargaining."

In its request for review, the Petitioner argues that the Regional Director applied the wrong standard in determining the adequacy of its showing of interest. The Authority agrees. The Authority finds that a petition which seeks to sever a unit of employees from an existing collective bargaining unit must be accompanied by a 30 percent showing of interest among the employees in the unit sought in the petition. In so finding, the Authority notes that section 7111(f)(2) of the Statute provides in relevant part that exclusive recognition shall not be accorded to a labor organization "if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition[.]" (Emphasis added.)<sup>2</sup> Accordingly, the Regional Director improperly based his dismissal, in part, on the Petitioner's insufficient showing of interest with respect to the overall consolidated unit.

However, the Authority disagrees with the Petitioner's contention that the Regional Director applied an improper legal standard for determining whether to conduct a hearing on its petition. Section 7111(b)(2) of the Statute provides in pertinent part that "the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing...." In agreement with the Regional Director, the Authority concludes that the record contains insufficient evidence to support a failure to represent on the part of the Incumbent or otherwise to support the Petitioner's contention that the established unit is no longer appropriate so as to give rise to a question of representation concerning the petitioned-for unit. Thus, the Authority finds that the Petitioner has failed to establish a reasonable cause to believe that a question of representation exists so as to warrant a notice of hearing in this matter.

Accordingly, the request for review, seeking reversal of the Regional Director's dismissal of the subject representation petition, is hereby denied.

Issued, Washington, D.C., October 31, 1984

Henry B. Frazier III  
Acting Chairman  
Ronald W. Haughton  
Member

## Footnotes

- <sup>1</sup> The Petitioner currently represents, in another unit, all of the remaining attorneys (series 905) of the Office of Hearings and Appeals, Social Security Administration.
- <sup>2</sup> See also section 2422.2(a)(9) of the Authority's Rules and Regulations which states: The petition shall be accompanied by a showing of interest of not less than thirty percent (30%) of the employees in the unit claimed to be appropriate....