

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Service, Hospital, Nursing Home and Public  
Employees Union, Local 47, AFL/CIO/CLC,  
Employee Organization,

86-036

and  
Northfield Park Associates,  
Employer.

CASE NUMBER: 85-MF-12-4853

DISMISSAL OF NOTICE TO NEGOTIATE  
(Opinion Attached)

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix: July 31, 1986.

The Service, Hospital, Nursing Home and Public Employees Union, Local 47, AFL/CIO/CLC (Employee Organization) has filed a notice seeking to negotiate with the Northfield Park Associates (Employer) for a unit of employees that had been covered by a collective bargaining agreement that expired on December 31, 1985. In response to the notice, the Employer filed a motion to dismiss contending that it is not a "public employer" within the meaning of Ohio Revised Code Section 4117.01(B) and that its employees are not "public employees" as defined in Ohio Revised Code Section 4117.01(C). The matter was directed to hearing for the development of the factual and legal issues associated with the motion to dismiss. The Board has considered the hearing officer's recommendations and, for the reasons set forth in the attached opinion, incorporated by reference, the Board adopts the hearing officer's findings of fact, conclusions of law, and recommendations. The Board grants the Employer's motion and dismisses the notice to negotiate.

It is so directed.

DAY, Chairman; SHEEHAN, Vice Chairman; and FIX, Board Member, concur.

*Jack G. Day*  
JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 10<sup>th</sup> day of September, 1986.

*Jacqueline V. Davis*  
JACQUELINE V. DAVIS, EXECUTIVE DIRECTOR

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Service, Hospital and Nursing Home Public Employees, Local 47,

Employee Organization,

and

Northfield Park Associates,

Employer.

CASE NUMBER: 85-MF-12-4853

OPINION

Day, Chairman:

This case comes before the State Employment Relations Board (SERB or Board) on motion to dismiss. The assigned ground for dismissal is that the employer, Northfield Park Associates (NPA), and its employees are not a public employer and public employees within the contemplation of Ohio Revised Code Subsections 4117.01 (B) and (C) respectively.

For reasons adduced below, the Board adopts the hearing officer's findings of fact, conclusions of law, and recommendations and grants the motion.

I

NPA is a limited partnership. The findings of facts, to which neither party has excepted, indicate the NPA has all the characteristics of a private employer. It owns a harness racetrack in Northfield, Ohio with adjunct facilities; it owns land on which it pays real property taxes; it pays a variety of additional taxes including state and federal income tax;

it responds to regulation by the Ohio State Racing Commission and to licensing and permit controls; and it manages its employees in virtually every particular of their employment except licensing.<sup>1</sup>

If these indicia do not make NPA a private employer (and, therefore, its employees private employees), then it is difficult to envision any employer which could qualify as private. For example, one could just as easily come to the bizarre conclusion that a trucking company is a public employer because the company pays taxes and utilizes licensed vehicles driven by licensed drivers at state regulated speeds. This is a reach SERB declines to make.

II

The motion to dismiss is granted. Case No. 85-MF-12-4853 is dismissed. Sheehan, Vice Chairman, and Fix, Board Member, concur.

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<sup>1</sup>See Findings of Fact 8-10.

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