

**SOUTH DAKOTA DEPARTMENT OF LABOR
DIVISION OF LABOR AND MANAGEMENT**

**GENERAL DRIVERS & HELPERS
UNION LOCAL 749,**

HF No. 2 E, 2009/10

Petitioner,

vs.

DECISION AND ORDER

**LAKE COUNTY SHERIFF'S
DEPARTMENT,**

Respondent.

This matter came before the Department when Petitioner filed a Petition for Election dated August 31, 2009, pursuant to SDCL 3-18-4. The Petition alleged a recognition dispute and asked that the Department conduct an election to determine the exclusive representative of a proposed bargaining unit, subsequent to a unit determination, if necessary.

The Respondent's Answer to Petition for Election dated September 10, 2009, challenged the Petition asserting that the Chief Deputy Sheriff was precluded from membership in the unit by state law'. Respondent's answer also questioned the total number contained within the unit and whether Petitioner represented 30% of the members of the proposed unit. As a result of these challenges, a hearing before the Department of labor was conducted on December 30, 2009 to resolve the issues.

Issues:

The legal issues presented at hearing are as follows:

Whether the Chief Deputy Sheriff is precluded from membership in the proposed bargaining unit by state law?

Whether the proposed unit membership was 7, rather than 8?

Whether Petitioner represented 30% of the proposed unit members?

Stipulation:

At the hearing, the parties agreed and stipulated the following:

1. The Chief Deputy Sheriff will be excluded from membership in the proposed bargaining unit;

2. The proposed unit membership is 7; and
3. The Petitioner represents 30% of the proposed unit membership.

Unit Determination:

The bargaining unit in this matter shall be defined as follows”:

All full-time deputies and jailers employed by Lake County South Dakota excluding the Sheriff, Chief Deputy Sheriff and all other county employees as defined by SDCL 3-18.

Order:

After considering the stipulations stated above, it is hereby ordered, that the Department of Labor, Division of Labor and Management shall conduct an election to determine the exclusive representative of the above defined bargaining unit.

Dated this 16th day of February, 2010.

SOUTH DAKOTA DEPARTMENT OF LABOR

 /s/Donald W. Hageman
Heather E. Covey
Administrative Law Judge