

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
ROCK COUNTY EMPLOYEES, LOCAL 1077,  
AFSCME, AFL-CIO  
Involving Employees of  
ROCK COUNTY, WISCONSIN  
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Case I  
No. 8846 ME-67  
Decision No. 6144-B

ORDER CLARIFYING BARGAINING UNIT

The Wisconsin Employment Relations Commission having, on November 19, 1962, issued a Certification of Representatives wherein, following an election conducted by it, it certified Rock County Employees, Local 1077, AFSCME, AFL-CIO, as the exclusive collective bargaining representative in the collective bargaining unit consisting of all employees employed in the Rock County Highway Department, excluding craft and supervisory and clerical employees; and subsequently, on March 12, 1968, said Labor Organization having, in writing, advised the Commission that an issue has arisen between it and the above named Municipal Employer with respect to whether employees occupying the classification of Assistant Foreman, a classification recently established by said Municipal Employer, should or should not be included in the certified bargaining unit; and further said Labor Organization having requested the Commission to make a determination with regard to such issue; and the Commission, pursuant to notice, having conducted a hearing in the matter on April 2, 1968, Herman Torosian appearing for the Commission; and the Commission having considered the evidence and arguments of counsel, and being fully advised in the premises, and being satisfied that all employees of the Rock County Highway Department holding the classification of Assistant Foreman are to be included in the bargaining unit previously established herein;

No. 6144-B

NOW, THEREFORE, it is


ORDERED

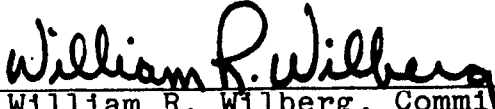
That all employes of the Rock County Highway Department holding the classification of Assistant Foreman are to be included in the bargaining unit consisting of all employes employed in the Rock County Highway Department, excluding craft and supervisory and clerical employes, and that, therefore, Rock County Employees, Local 1077, AFSCME, AFL-CIO, is the duly certified representative for said employes.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 31st  
day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
William R. Wilberg, Commissioner

STATE OF WISCONSIN

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MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

Following an election conducted by it, the Wisconsin Employment Relations Commission, on November 19, 1962, certified Rock County Employees, Local 1077, AFSCME, AFL-CIO as the exclusive collective bargaining representative of all employees employed in the Rock County Highway Department, excluding craft and supervisory and clerical employees. On March 12, 1968, said Labor Organization, by letter, advised the Commission that after the parties had completed negotiations for a 1968 labor agreement, the Municipal Employer created a new classification, that of Assistant Foreman, and that subsequently an issue arose as to whether four employees so classified were within the certified bargaining unit. In said letter there was a request that the Commission make a determination in the matter. As a result, the Commission issued an Order for Hearing to take evidence pertinent to the issue. The hearing has been held, and the Commission has considered the evidence and arguments of counsel.

On November 30, 1967, the new classification of Assistant Foreman was created by the Municipal Employer. On January 1, 1968, David Gajdosik, formerly classified as a Shovel Operator, Kenneth Nelson, formerly classified as a Heavy Equipment Operator, Clem Hudziak, formerly classified as a Patrolman, and Louis Playter, formerly classified as a Heavy Truck Driver, were assigned the newly created classification of Assistant Foreman. The Union contends that the duties performed by said four Assistant Foremen do not warrant their exclusion from the certified bargaining unit. The Municipal Employer claims that the Assistant Foremen are, in fact, supervisors and, therefore, should be excluded from the unit.

Upon his reclassification, Gajdosik, as Assistant Foreman of the rock crushing crew, began receiving wages of \$565 per month, \$15 per month more than he would be receiving in his former classification as a Shovel Operator. The rock crushing operation runs approximately eleven months a year, depending on weather conditions and needed equipment repair work. When the rock crushing operation is down, Gajdosik then is either supervising and performing repair work or supervising three to six employees in general roadside work. In the latter case Gajdosik is only required to supervise and not perform any physical work.

Gajdosik's status and duties as Assistant Foreman only become effective in the absence of the regular foreman which, based upon past history, amounts to about 50 per cent of the time. When the regular foreman is present, Gajdosik operates the shovel full time and has no supervisory authority. In his absence Gajdosik assumes the responsibilities and duties of the regular foreman in addition to operating the shovel about half of the time. In other words, Gajdosik works along with the men he supervises approximately 75 per cent of the time. The duties assumed by Gajdosik consist of assigning work and directing the work force, ordering overtime work when necessary, recommending transfer, layoff and disciplinary action, checking daily time cards, enforcing safety rules, handling employee grievances in the first step of the grievance procedure, and assuming responsibility for the use and maintenance of the equipment.

During the course of the hearing the parties agreed that the facts and circumstances surrounding the duties of Kenneth Nelson, as Assistant Foreman of the gravel crushing crew, are similar to those relative to Gajdosik. If Nelson would have remained in the same classification, he would be earning \$535 per month. As the Assistant Foreman he now earns \$552 per month. However, the Municipal Employer contends that although Nelson spends approximately 75 per cent of his time operating a crusher, by the nature of his job he is able to spend more time in exercising supervisory duties than does Gajdosik.

Hudziak, had he remained in his classification as Patrolman, would have received \$510 per month. As Assistant Foreman he now receives \$526 per month. Hudziak still remains primarily a Patrolman, but in five months of the year, during the seal coating operation, he drives an oil truck. He was designated an Assistant Foreman and given

supervisory duties because his immediate supervisor is absent from the seal coating operation and Hudziak's Patrolman section approximately 60 per cent of the time. Hudziak, however, has not been relieved of his former duties but rather spends almost his entire time working along with the employes he supervises.

Playter, prior to his reclassification, was employed as a Stock Room Assistant, and if he had not been raised to Assistant Foreman, he would be receiving \$520 per month. Since January 1, 1968, he has received \$526 per month. Playter's duties have not changed since his reclassification, and he spends no more time in supervising employes who might come into the stock room than he did prior to his reclassification.

Job titles and classifications assigned to municipal employes are not determinative as to whether the employes holding such classifications or titles are to be included or excluded in public employe bargaining units. The supervisory status of employes will be determined by looking behind the job titles to determine the nature and extent of the claimed supervisory authority.<sup>1/</sup>

The Commission concludes that while Gajdosik, Hudziak, Nelson and Playter were designated Assistant Foremen and specifically given certain supervisory duties, the time spent in performing such supervisory duties is not sufficient to warrant their exclusion from the unit as supervisors. They are working foremen<sup>2/</sup> spending the majority of their time performing duties similar to those performed by those persons whom they may supervise and, therefore, they are to be considered to be included in the certified bargaining unit. Playter's duties have not changed significantly. There is some question as to whether he is even a working foreman, and, therefore, he is in the unit.

Dated at Madison, Wisconsin, this 31st day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney  
Morris Slavney, Chairman

William R. Wilberg  
William R. Wilberg, Commissioner

1/ Village of Shorewood (6552) 11/63

2/ Shawano County (6074) 8/62; Village of Brown Deer (6650) 2/64

