

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of :
INTERNATIONAL UNION OF OPERATING ENGINEERS, :
LOCAL NO. 311 :
Involving Employes of : Case I
: No. 8629 ME-19
: Decision No. 6152
CITY OF WAUKESHA Employed in the :
SEWAGE TREATMENT PLANT :

Appearances:

Mr. Robert C. Thompson, Business Representative, for the Petitioner.
Mr. Walter E. Dick, Director of Public Works, and Mr. Gary K. Coates, Assistant Engineer, for the Employer.

DIRECTION OF ELECTION

The above named Petitioner having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Sec. 111.70 of the Wisconsin Statutes, among certain employes of the above named Municipal Employer; and the hearing on such petition having been conducted at Waukesha, Wisconsin, on May 10, 1962, Chairman Morris Slavney and Commissioner John E. Fitzgibbon being present; and the Board having considered the evidence and arguments of Counsel and being satisfied that a question has arisen concerning representation for certain employes of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this Directive in the group of employes consisting of all regular and full-time sewage plant operators, maintenance men, and laboratory technicians in the employ of the Sewage Treatment Plant of the City of Waukesha, excluding supervisors and executives, who were employed by said Municipal Employer on October 31, 1962, except such employes as may prior to the election quit their employment or be discharged for cause for the purpose of

determining whether or not a majority of such employes desire to be represented by International Union of Operating Engineers, Local No. 311, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 31st day of October, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/

SEAL

J. E. Fitzgibbon /s/

Arvid Anderson /s/

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

In its petition the Union claimed the appropriate collective bargaining unit to consist of "all power plant employes at the Waukesha Sewage Treatment Plant". At the outset of the hearing it amended the description of the alleged unit to read: "All employes of the Waukesha Sewage Treatment Plant, excluding supervisory personnel."

The Municipal Employer furnished the Board with a list of employes which indicated that the Municipal Employer employed four "Operators", a "Relief Operator (Laborer)", a "Chemist (Part Time)", an "Assistant Chemist (Part Time)" and a "Foreman". Following the hearing, and with the approval of the Union, the Municipal Employer furnished the Board with Class Specifications indicating that the correct identification of the positions established at the Waukesha Sewage Treatment Plant are "Sewage Plant Operators", "Maintenance Man", "Laboratory Technician" and "Foreman". In discussing the issues the Board will herein utilize the proper job titles as indicated in the Class Specifications.

The Union contends that the appropriate unit should consist of all the employes which include sewage plant operators, laboratory technicians, and maintenance men. The Union would also include John W. Wagner, who occupies the position of foreman, contending that the nature of Wagner's supervisory duties are not such as to exclude him from the eligibles in the bargaining unit. The Union would also include the laboratory technicians who are employed on a

regular part-time basis.

The Employer desires the exclusion of Wagner, contending that he is a supervisory employe, and, further, that the two laboratory technicians should be excluded because they are chemists.

Gary K. Coates, the Assistant Engineer in Charge, is primarily responsible for the supervision of the operation of the sewage plant. Wagner is directly responsible to Coates. Coates is present only from three to four hours daily at the plant. Wagner puts in his full eight-hour day at the plant and is responsible for the operation, repair, and maintenance of equipment, buildings and grounds. He supervises the work of the operators and laborers and schedules house-keeping, cleaning, and other work assignments. In addition to the supervisory duties, Wagner also performs physical work. He has the authority to effectively recommend hiring, firing, and disciplinary action relating to the operators and maintenance men. He receives thirteen cents an hour over and above the hourly rate paid to the highest employe supervised by him. Although Wagner spends only two to three hours per day in supervision, we do not conclude that he is a working foreman since his supervisory characteristics exceed those of a working foreman and, therefore, we conclude that Wagner is a supervisor and, therefore, shall not be included among the eligibles.

The Municipal Employer employs two laboratory technicians who perform bacterial and solids count tests. These tests require the mixing of chemicals, and the burning and drying of materials. Although the description of the position indicates as desirable the graduation from a college or university with major courses in chemistry and supporting sciences, the work performed by the laboratory technicians do not necessarily require such education. At the date of the hearing, Dwight A. Shanks and Lloyd J. Uhren occupied the laboratory technician positions. They are both high school teachers and they are employed by the Municipal Employer on a part-time basis working from 12 to 16 hours per week on the second shift during the school year. During the summer vacation period when apparently Shanks and

Uhren are either out of the city or have full-time employment elsewhere their positions are filled by temporary employes, who may be students. We conclude that the duties performed by the laboratory technicians herein do not establish that they are professional employes falling within the meaning of the term "craft", as set forth in Winnebago County Hospital,^{1/} and, therefore, Shanks and Uhren will be included among the eligibles.

Dated at Madison, Wisconsin, this 31st day of October, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/

J. E. Fitzgibbon /s/

Arvid Anderson /s/

1/ Dec. No. 6043, 7/62.