

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of : Case I
MENOMONIE CITY EMPLOYEES, LOCAL 734, AFSCME, : No. 8877 ME-71
AFL-CIO : Decision No. 6158
Involving Employees of :
CITY OF MENOMONIE Employed in the DEPARTMENT :
OF PUBLIC WORKS :

Appearances:

Mr. Eugene Doyle, Representative District 5, for the Petitioner.
Corey & Solberg, Attorneys, by Mr. James G. Solberg, for the
Municipal Employer.

DIRECTION OF ELECTION

The above named Petitioner having petitioned the Wisconsin
Employment Relations Board to conduct an election pursuant to
Section 111.70 of the Wisconsin Statutes, among certain employees
of the above named Municipal Employer; and a hearing on such petition
having been conducted at Menomonie, Wisconsin on October 23, 1962,
by Robert M. McCormick, Examiner; and the Board having considered
the evidence and being satisfied that a question has arisen concerning
representation for certain employees 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 collective bargaining
unit consisting of all regular full-time and regular seasonal employees,
including working foremen of the City of Menomonie employed in the
Department of Public Works consisting of the Park Department, Street
Department, Water Department and Sewage Disposal Department, but
excluding the "building construction" employee, the Superintendent,
supervisors, and confidential clerical personnel, who were employed

by the Municipal Employer on November 7, 1962, except such employees as may prior to the election quit their employment or be discharged for cause, to determine whether the majority of such employees desire to be represented by Menomonie City Employees, Local 734, AFSCME, AFL-CIO, 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 7th
day of November, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

SEAL

J. E. Fitzgibbon /s/
J. E. Fitzgibbon, Commissioner

Arvid Anderson /s/
Arvid Anderson, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

In its petition the Union alleged that the appropriate collective bargaining unit should consist of "all regular full-time employees of the Department of Public Works of the City of Menomonie, Wisconsin, such Department of Public Works consisting of the Park Department, Street Department, Water Department and Sewerage Disposal Department, except superintendents, supervisory personnel and confidential secretaries". The Municipal Employer did not object to the alleged unit. However an issue arose with regard as to whether seasonal employees should be included among those eligible in the unit.

During the hearing the Union contended that the appropriate unit should also include those individuals employed by the Municipal Employer during the period May 1 to October 1, namely three Park Department employees and a building construction employee, whom the Board shall refer to hereinafter as seasonal employees. The Municipal Employer objected to the inclusion of said employees in the unit.

The record discloses that at the time of the hearing three seasonal employees were employed in the Parks Department, each working an average of 48 hours per week through the growing season. Said three employees were hired in May 1960 and have continued as seasonal employees for three successive years. Another employee presently employed as a building construction and maintenance man was hired in May 1962, for the 1962 construction season only.

The record further discloses that the active employment of the seasonal Park Department employees is concluded upon the termination of the growing season and will be so terminated upon the end of the 1962 season, which this year extends beyond the normal October 1 date. The testimony of the Superintendent indicated that the three seasonal Park Department employees would again be rehired next year as in the past, but that the building construction employee would probably not be rehired in the spring of 1963. Because of the past practice of the Municipal Employer in rehiring its three seasonal Park Department employees and because said employees have been employed for a substantial period of the year and working the same basic work week as other employees in the Department of Public Works, the Board finds that the seasonal Park Department employees have an expectancy of return to active employment, and, therefore have an interest in the wages, hours and working conditions under which they are and shall be employed.^{1/} The Board further finds that the seasonal building construction employee has no such expectancy, there being no evidence that the Municipal Employer would employ an individual to perform such work on any other than an occasional basis.

We, therefore, conclude that the three seasonal Park Department employees are to be included in the bargaining unit and are eligible to participate in the election and that the one seasonal building construction employee is excluded from the unit and ineligible to participate in the election.

Dated at Madison, Wisconsin, this 7th day of November, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

J. E. Fitzgibbon /s/
J. E. Fitzgibbon, Commissioner

^{1/} Pierce County Highway Dept. Arvid Anderson /s/
Dec. No. 6150 10/62 Arvid Anderson, Commissioner