

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of	:	
COMMITTEE OF FIRE LIEUTENANTS	:	
Employed in the	:	Case XX
FIRE DEPARTMENT OF THE	:	No. 9173 ME-108
CITY OF MILWAUKEE	:	Decision No. 6476-D

ORDER OF DISMISSAL

The Committee of Fire Lieutenants having filed a petition with the Wisconsin Employment Relations Board requesting the Board to set a hearing to take evidence with respect to its claim that Fire Lieutenants employed in the Fire Department of the City of Milwaukee are supervisors, and therefore should be excluded from the collective bargaining unit previously established by the Board on August 30, 1963; and the Board having considered said petition, and being fully advised in the premises, and being satisfied that the Committee of Fire Lieutenants is not a proper party to raise such an issue;

NOW, THEREFORE, it is

ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 4th day of April, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By *Morris Slavney*
Morris Slavney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

Zel S. Rice II
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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

Following a hearing conducted on a petition for an election filed by Milwaukee Fire Fighters Association, Local 215, AFL-CIO, the Board, on August 30, 1963,^{1/} issued a Direction of Elections which, among other things, directed that an election be conducted by the Board among all regular employes employed by the various bureaus of the Fire Department of the City of Milwaukee, excluding craft employes, confidential employes, supervisors and executives, and also conditionally excluding the Fire Boat Pilots and Marine Engineers employed in the Fire Fighting Service.

In that proceeding, Local 215 had taken the position that Fire Captains and Fire Lieutenants, among others, should be included in the collective bargaining unit. In its Memorandum accompanying the Direction, the Board concluded that the Fire Captain classification was supervisory and was excluded from the unit, while the Fire Lieutenants did not perform such supervisory duties so as to exclude them from the unit. Prior to the conduct of the election which had been directed, the City of Milwaukee, on October 16, 1963, by a resolution adopted by its Common Council, recognized Local 215 as the exclusive bargaining representative for all regular employes employed in the various bureaus of the Fire Department of the City of Milwaukee, excluding craft employes, confidential employes, supervisors and executives, and also conditionally excluding the Fire Boat Pilots and Marine Engineers employed in the Fire Fighting Service,

1/ City of Milwaukee, Dec. No. 6476.

and Fire Alarm Dispatchers employed in the Bureau of Fire Communications. Since the latter date, Local 215 has represented the employees in said unit which excludes the Fire Captains, but which includes the Fire Lieutenants.

On March 18, 1966, Jerome H. Wichgers, on behalf of the Committee of Fire Lieutenants, Milwaukee Fire Department, filed a petition with the Board wherein he requested a rehearing with reference to the Board's August 30, 1963 decision wherein it determined that Fire Lieutenants were not supervisors. Said Committee now claims that a change has occurred in the duties of the Fire Lieutenants, and since that change, said classification is now supervisory. The Committee of Fire Lieutenants was not a party to the original election proceeding.

We are satisfied, from an administrative determination made by the Board, that the issue arising out of the instant petition concerns itself with whether the Committee of Fire Lieutenants is a proper party to initiate a proceeding seeking to amend the previous determination made by the Board in its Direction. There is no doubt that under the statute, if sufficient cause therefor is shown, either the municipal employer or the labor organization certified or recognized as the exclusive collective bargaining representative could properly file a similar petition.

We have considered the petition as being in substance a Motion to Clarify Unit and Reopen Hearing. However, it is our conclusion for reasons that follow that neither the Committee of Fire Lieutenants nor Jerome H. Wichgers, individually, are proper parties to raise the issue of whether the classification of Lieutenant in the Milwaukee Fire Department is a supervisor, and we are therefore issuing an order dismissing said petition.

Section 111.70(4)(d), Wisconsin Statutes, provides:

"Whenever a question arises between a municipal employer and a labor union as to whether the union represents the employees of the employer, either the union or the municipality may petition the board to conduct an election among said employees to determine whether they desire to be represented by a labor organization. . . ." (emphasis added)

There is no claim that the Committee of Fire Lieutenants is a labor organization. In fact, what said Committee seeks to do is to have the Board merely determine that the classification of Fire Lieutenant

is supervisory.

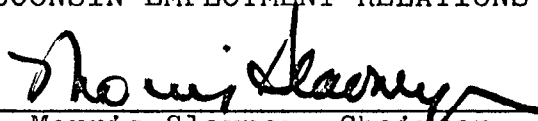
Section 111.70 affords municipal employes who wish to be represented in conferences and negotiations with their municipal employer concerning their wages, hours and conditions of employment a procedure wherein the majority of said employes may select an organization to be their exclusive representative; however, this section does not afford any independent rights as parties to individuals who would attempt to establish that they are supervisors. The only proper parties in regard to this issue would be the municipal employer and the labor organization certified or recognized in the particular proceeding.


Therefore, neither Jerome H. Wichgers, as an individual, nor the Committee of Fire Lieutenants are proper parties to reopen the matter in an attempt to persuade the Board to change its conclusion with respect to the Fire Lieutenants in the employ of the Milwaukee Fire Department.

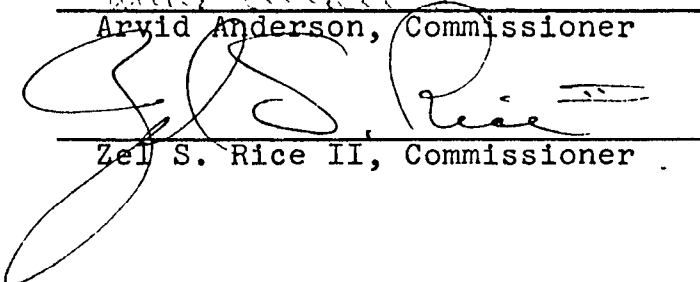
Dated at Madison, Wisconsin, this 4th day of April, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By


Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner