

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

Case XX  
No. 9173 ME-108  
Decision No. 6476

Milwaukee Fire Fighters Association, Local 215, AFL-CIO, 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 City of Milwaukee employed in its Fire Department and a hearing on such petition having been conducted at Milwaukee, Wisconsin on June 4, 1963 at the City Hall, Milwaukee, Wisconsin, Chairman Morris Slavney and Commissioner Arvid Anderson being present, and following the close of the hearing the Board permitted Local 1037, Uniformed Pilots and Marine Engineers Association, AFL-CIO, to intervene in the instant proceeding on the basis that it claims to represent certain employees involved in said petition; and the Board having considered the evidence and arguments of the parties and being satisfied that questions have arisen concerning the representation for certain employees of the Municipal Employer;

DIRECTED

Voting Group No. 1 -- Pilots and Engineers

All regular employes having the classifications of Fireboat Pilots and Marine Engineers employed in the Fire Fighting Service in the Fire Department of the City of Milwaukee excluding all other employes, confidential employes, supervisors and

executives, who were employed by the City of Milwaukee, on August 30, 1963, except such employees as may prior to the election quit their employment or be discharged for cause for the purpose of determining whether a majority of such employees desire to constitute themselves a collective bargaining unit separate and apart from the remaining classifications employed in the various bureaus of the Fire Department, and further, whether a majority of such employees desire to be represented by Local 1037, Uniformed Pilots and Marine Engineers Association, AFL-CIO, for the purposes of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

Voting Group No. 2 -- Over-All Fire Department

All regular employees employed in the various bureaus of the Fire Department of the City of Milwaukee, excluding craft employees, confidential employees, supervisors and executives, and also conditionally excluding the Fireboat Pilots and Marine Engineers employed in Fire Fighting Service. Employees who are included in Voting Group No. 2 shall be eligible to vote if they were employed on August 30, 1963, except such employees as may prior to the election quit their employment or be discharged for cause. Said election is for the purpose of determining whether a majority of the employees in Voting Group No. 2 desire to be represented by Milwaukee Fire Fighters Association, Local 215, AFL-CIO, for the purposes of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

If a majority of the eligible employees in Voting Group No. 1 select Local 1037, Uniformed Pilots and Marine Engineers, AFL-CIO, as their bargaining representative the employees in that voting group shall constitute a separate collective bargaining unit. If a majority of the eligible employees in said voting group do not select Local 1037, Uniformed Pilots and Marine Engineers, AFL-CIO, then said employees shall be included in Voting Group No. 2 which consists generally of employees employed in the Fire Department of the City of Milwaukee and for whom representation is sought by Milwaukee Fire Fighters Association, Local 215, AFL-CIO.

Given under our hands and seal at the City  
of Madison, Wisconsin this 30th day of  
August, 1963.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/  
Morris Slavney, Chairman

Arvid Anderson /s/  
Arvid Anderson, Commissioner

S E A L

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :  
MILWAUKEE FIRE FIGHTERS :  
ASSOCIATION, LOCAL 215, AFL-CIO :  
Involving Employees of :  
CITY OF MILWAUKEE, Employed :  
in the FIRE DEPARTMENT :  
- - - - -

Case XX  
No. 9173 ME-108  
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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

In its petition Milwaukee Fire Fighters Association, Local 215, AFL-CIO, claimed the appropriate unit to consist of all personnel in the department with the exception of certain specified exclusions. To expedite the discussion with respect to the issues raised herein we shall consider the issues as they arise in the organization of the department. The Fire Department consists of Headquarters and the following eight bureaus:

Bureau of Administration	Bureau of Machinery Apparatus
Bureau of Medical Service	Bureau of Fire Prevention and
Bureau of Instruction and Training	Investigation
Bureau of Fire Communications	Fire Fighting Service
Bureau of Buildings and Grounds	

HEADQUARTERS

Local 215 and the Municipal Employer agree that all employees employed at Headquarters are supervisory. Such employees are the Chief Engineer, First Assistant Chief Engineer and the Battalion Chief, Fire.

BUREAU OF ADMINISTRATION

Local 215 and the Municipal Employer agree that the Administrative Assistant III, II, I and Accountant I are supervisory and that the Clerk Stenographer IV is a confidential employee. Local 215 would exclude the remaining employees occupying the Account Clerk II, Clerk Stenographer III, and Custodial Worker II positions. The Municipal Employer would include the three classifications in the unit.

BUREAU OF MEDICAL SERVICES

The only employees in this bureau are part-time Physicians and it is agreed that they are excluded from the unit.

#### BUREAU OF INSTRUCTION AND TRAINING

The parties agree that the Deputy Chief, Fire Training & Special Services, Chief of Rescue and Motor Vehicle Operator Instructor are supervisory and are to be excluded from the eligibles, and that the Clerk Stenographer I is confidential and also to be excluded. The contention of the Municipal Employer that the Fire Captain and the Fire Lieutenant perform such supervisory duties so as to exclude them from the eligibles is contested by Local 215. The parties agree that the remaining position in the Bureau, that of Firefighter is to be included among the eligibles.

#### BUREAU OF BUILDINGS AND GROUNDS

The classification of Superintendent of Buildings and Grounds is excluded by the parties as supervisory, and classifications of Bricklayer, Buildings, Carpenter and Painter are excluded as craft employees. They agree that the remaining classifications of Fire Equipment Repairman II and Maintenance Mechanic are to be included among the eligibles.

#### BUREAU OF MACHINERY AND APPARATUS

The Superintendent of Machinery and Apparatus and the Automotive Mechanic Supervisor are agreed upon as being supervisory and thus are to be excluded from the eligibles. The parties agree that the remaining classifications in the bureau are to be included among the eligibles and they are the Fire Equipment Mechanic II and I, Fire Equipment Repairman II, Maintenance Mechanic, Firefighter, Store Clerk III and Garage Attendant.

#### BUREAU OF FIRE PREVENTION AND INVESTIGATION

The parties agree that the Deputy Chief, Fire and the Clerk Stenographer IV are supervisory and therefore excluded from the eligibles. The Municipal Employer, contrary to the position of Local 215, would exclude the classifications of Fire Prevention Captain and Fire Prevention Lieutenant as supervisory. Local 215, contrary to the position of the Municipal Employer, would exclude the classification of Clerk Stenographer I and Clerk Typist I. The parties agree that the remaining classifications of Fire Prevention Officer and Firefighter be included in the unit.

#### BUREAU OF FIRE COMMUNICATIONS

There is agreement that the classifications of Chief Dispatcher of Fire Alarm

and Telegram and Assistant Chief Dispatcher of Fire Alarm and Telegram are supervisory. Local 215 would also exclude the remaining positions in the bureau, that of Fire Alarm Dispatcher, contending that Local 494, International Brotherhood of Electrical Workers claims to represent the employees in said classification. The Municipal Employer opposed this exclusion. It should be noted that Local 494 was served with a copy of the Notice of Hearing but failed to make an appearance at the hearing or to indicate any interest thereafter.

#### FIRE FIGHTING SERVICE

Local 215 would include all the classifications in the Fire Fighting Service with the exception of Fireboat Pilot and Marine Engineer classifications employed at 105 North Water Street, known as Engine Company No. 15 (Fireboat). It would exclude said classifications for the reason that in the past Local 1037, Uniformed Pilots and Marine Engineers Association, AFL-CIO, has represented the employees in such classifications. Local 1037 was inadvertently not given notice of the hearing. However, subsequent thereto, said local advised the Board in writing that it claimed to represent employees in said classifications. The classifications which Local 215 desires to include in the unit, which are employed in the Fire Fighting Division include the following:

Fire Captain	Motor Pump Operator
Fire Lieutenant	Firefighter
Fire Fighter (Aide)	Marine Fireman

The Municipal Employer would exclude the classifications of Fire Captain and Fire Lieutenant as supervisory.

It appears to the Board that Local 215 would exclude from the appropriate unit classifications which it has not historically represented in the past. This reason alone does not warrant exclusion of such classifications from the unit under the applicable sections of the Statute. With the exception of Local 1037, Uniformed Pilots and Marine Engineers, AFL-CIO, who claims to represent the Fireboat Pilots and Marine Engineers, no other organization claims to represent the remaining employees which Local 215 would exclude. Since the Municipal Employer in the past has recognized the Fireboat Pilots and Marine Engineers as a separate division, the employees in said classifications will be given an opportunity to determine for themselves if they desire to constitute a separate appropriate collective bargaining unit.

Local 215 desires a unit consisting of some of the employees in the Bureau of Instruction and Training, Bureau of Buildings and Grounds, Bureau of Machinery and Apparatus, Bureau of Fire Prevention and Investigation and Fire Fighting Service. It would also exclude all otherwise eligible employees in the Bureau of Administration and in the Bureau of Fire Communications. The unit desired by Local 215 does not consist of a separate division or department nor are all the employees in the desired unit members of a single, craft or profession. Local 215 cannot pick and choose the classifications it desires to include in an over-all unit of the Fire Department. There must be a sound basis for the exclusion of employees from the unit and such basis must be within the framework of the Statutes. Since the classifications desired to be included in the unit do not constitute a separate department or division of the Municipal Employer and since they are not members of the same craft or profession it is apparent that the appropriate bargaining unit must consist of all eligible employees in the department with the exception of supervisors, confidential employees and craft employees or those classifications which constitute a separate division and representation for them are claimed by another organization. Therefore the Account Clerk II, Clerk Steno. III and Custodial Worker II positions in the Bureau of Administration, the Clerk Steno. I and Clerk Typist I in the Bureau of Fire Prevention and Investigation and the Fire Alarm Dispatcher in the Bureau of Fire Communications are to be included in the over-all Fire Department unit.

As noted above there is an issue as to whether Fire Captains and Fire Lieutenants are supervisory positions. The petitioner emphasizes the closely interrelated functions of the Department as a semi-military organization and also emphasizes the fact that it has traditionally represented a number of the Fire Captains and Fire Lieutenants. The Board has reviewed the job descriptions for said two classifications and exhibits presented by the parties with respect to the issues. The rules and regulations of the Department provide that the Fire Captain shall have the command and control over the employees attached to their companies and detailed to their quarters. The Fire Captain is responsible for the maintenance of discipline within his prescribed sphere of authority. He is in charge of a company of usually from 10 to 15 men, including one or more Fire Lieutenants assigned to his command. The Fire Lieutenant is normally in charge of a particular

shift having 5 or 6 men under him. The Fire Captain is responsible for preparing performance reports with respect to the employment record of the men in his command. Employees seeking time off or other changes in work days make arrangements through the Fire Captain although in some instances the ultimate authority rests with the Battalion Chief. The President of Local 215 in describing the duties of the Fire Captain acknowledged that the latter was totally responsible for the apparatus and duties performed in the Engine House and that he was also responsible for instructing and directing the Firefighters in the performance of their duties, including being responsible for discipline in carrying out his orders. The Fire Captain is in pay range 12, which is two ranges above that of the Fire Lieutenant and five ranges above that of the Firefighters. At the present time the differential in pay between that of the Firefighters and Fire Lieutenants is approximately 10%. The Board has considered the arguments of the petitioner that the Fire Captains and Fire Lieutenants actively engage in the fighting of fires or respond to other emergencies along with the Firefighters. The Board is satisfied that although the Fire Captains and Fire Lieutenants actively engage in fighting fires said activity does not in itself determine their supervisory status. Because of the authority to direct the Firefighters, the responsibility for commanding, the authority to discipline and recommend same, the authority and responsibility to evaluate the men under their command, the level of their supervision, the number of men under their supervision and because of their pay differential, we have concluded that the Fire Captain classifications are supervisory and therefore are to be excluded from the eligibles. By applying the same criteria we have concluded that the Fire Lieutenant does not perform such supervisory duties so as to exclude him from the eligibles. The exclusion of the Fire Captain classification from the eligibles discloses a realistic ratio of supervisory to non-supervisory positions in the Department. To exclude Fire Lieutenants as supervisory would create an unreasonable ratio of supervisors to non-supervisory positions.

#### Voting Groups and Units

The following classifications in the Fire Fighting Service are to be considered eligible in the Pilots and Engineers Voting Group:

Fireboat Pilots

Marine Engineers

The following classifications are to be included in the over-all unit of the Fire Department:

Headquarters

None

Bureau of Administration

Account Clerk II  
Custodial Worker II

Clerk Steno. III

Bureau of Medical Services

None

Bureau of Instruction and Training

Fire Lieutenant

Firefighter

Bureau of Buildings and Grounds

Fire Equipment Repairman II

Maintenance Mechanic

Bureau of Machinery and Apparatus

Fire Equipment Mechanic II, I  
Maintenance Mechanic  
Stores Clerk II

Fire Equipment Repairman II  
Firefighter  
Garage Attendant

Bureau of Fire Prevention and Investigation

Fire Prevention Lieutenant  
Clerk Typist I  
Firefighter

Clerk Steno. I  
Fire Prevention Officer

Bureau of Fire Communications

Fire Alarm Dispatcher

Fire Fighting Service

Fire Fighter (Aide)  
Motor Pump Operator  
Marine Fireman

Fire Lieutenant  
Firefighter

Dated at Madison, Wisconsin this 30th day of August, 1963.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/  
Morris Slavney, Chairman

Arvid Anderson /s/  
Arvid Anderson, Commissioner