

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :
INTERNATIONAL ASSOCIATION OF FIRE- :
FIGHTERS, LOCAL 483, AFL-CIO : Case I
 : No. 9402 ME-125
Involving Employees of : Decision No. 6619
 :
CITY OF SHEBOYGAN, WISCONSIN, Employed :
in the FIRE DEPARTMENT :
----- :

Appearances:

Rabinovitz & Hodson, by Mr. Eugene F. Hodson, Attorney at
Law, for the Petitioner.
Honorable Emil C. A. Muuss, Mayor, and Mr. A. M. Werner, City
Attorney, for the Municipal Employer.

DIRECTION OF ELECTION

International Association of Firefighters, Local 483, 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 Sheboygan, employed
in its Fire Department, and a hearing on such petition having been
conducted at Sheboygan, Wisconsin on November 4, 1963 at the
Sheboygan County Court House, Sheboygan, Wisconsin, by Robert M.
McCormick, Examiner, and the Board having considered the evidence
and being satisfied that a question has arisen concerning the
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
ninety (90) days from the date of this Directive in the collective
bargaining unit consisting of all firefighting service, fire
prevention and investigation, and machinery and apparatus employees,
excluding the chief, first assistant chief, second assistant chief
and captains, who were employed by said Municipal Employer on

January 24, 1964, 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 Association of Firefighters, Local 483, 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 24th
day of January, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

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Involving Employees of

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

In its petition the Union alleged that the appropriate collective bargaining unit consisted of "all firefighting service, fire prevention and investigation, and machinery and apparatus employees, excluding Chief, First Assistant Chief, Second Assistant Chief, and Captains in the employ of the Sheboygan Fire Department. The Municipal Employer took no definite position with regard to the classification of employees to be included or excluded from the appropriate collective bargaining unit.

The evidence disclosed that all the employees employed in the Fire Department of the City of Sheboygan are under the ultimate authority of the Fire Commission of the city. However, the Chief is in overall direct charge of the employees in the department, which contains approximately sixty (60) employees performing their duties at three fire stations. The Chief can effectively recommend discipline and the hiring and firing of personnel subject to the approval of the Fire Commission. At fires the First and Second Assistant Chiefs are in command of the Captains, Lieutenants, and firefighters until the arrival of the Chief. The Assistant Chiefs direct the work force at the various stations and have the authority to discipline employees. The Fire Captains are in charge of various individual companies, consisting of twelve men, including Lieutenants. The Captains are responsible for setting forth training schedules

and is in charge of housekeeping tasks performed by the employees under their control. The Captains have the authority to assign and schedule personnel and relieve them from their duties. They prepare performance reports and evaluate the men under their individual command. The Lieutenants, on the other hand, are subject to immediate direction of the Captain and carry out the latter's instructions with respect to training schedules and housekeeping duties.

We conclude that the positions of Chief, First and Second Assistant Chiefs and Captains are supervisory in nature and therefore are to be excluded from the eligibles.^{1/}

At the outset of the hearing the Examiner denied a motion to adjourn the hearing. At no time following the close of the hearing has the Municipal Employer requested to reopen the matter for additional evidence. Since a hearing on an election petition is not an adversary proceeding, and is conducted primarily as part of the Board's investigation to determine matters necessary for the proper conduct of the election, we find that the Examiner did not commit any prejudicial error in denying the motion to adjourn the hearing.

Dated at Madison, Wisconsin, this 24th day of January, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

1/ City of Milwaukee - Fire Department, Dec. No. 6476, 8/63