

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of
COMMUNICATIONS WORKERS OF AMERICA
Involving Employees of
CITY OF RIVER FALLS employed in the
UTILITY, SANITATION and STREET
DEPARTMENTS.

Case I
No. 9650 ME-144
Decision No. 6729

In the Matter of the Petition of
COMMUNICATIONS WORKERS OF AMERICA
Involving LINEMEN employed by the
CITY OF RIVER FALLS in the
UTILITY DEPARTMENT.

Case II
No. 9688 ME-148
Decision No. 6730

In the Matter of the Petition of
COMMUNICATIONS WORKERS OF AMERICA
Involving DIESEL GENERATOR OPERATORS
employed by the
CITY OF RIVER FALLS in the
UTILITY DEPARTMENT.

Case III
No. 9689 ME-149
Decision No. 6731

Appearances:

Mr. James Orr, International Representative, for the Petitioner.
Mr. C. L. Gaylord, City Attorney, for the Municipal Employer.

DIRECTION OF ELECTIONS

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 the City of River Falls,

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Wisconsin, on April 30, 1964, James L. Greenwald, Examiner, being present; and the Board having considered the evidence and being satisfied that questions have arisen concerning representation for certain employees of the Municipal Employer;

NOW, THEREFORE it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days of the date of this Directive in the following collective bargaining units:

UNIT NO. 1

All regular full-time and regular part-time employees of the City of River Falls employed in its Utility, Sanitation and Street Departments, including working foremen, and excluding temporary employees, supervisors, and confidential and craft employees.

UNIT NO. 2

All linemen employed in the Utility Department of the City of River Falls, excluding supervisors and all other employees.

UNIT NO. 3

All diesel generator operators employed in the Utility Department of the City of River Falls, excluding supervisors and all other employees.

All employees having the classifications which are included as eligibles in the three units described above shall be eligible to participate in the elections if they are in the employ of the Municipal Employer on May 15, 1964, except such employees as may prior to the elections quit their employment or be discharged for cause. The purpose of said elections is to determine whether a majority of the employees eligible in each unit described above

desire to be represented by Communication Workers of America
for the purpose of conferences and negotiations with the City
of River Falls on questions of wages, hours and conditions of
employment.

Given under our hands and seal
at the City of Madison, Wisconsin
this 15th day of May, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/
Morris Slavney, Chairman

S E A L

Arvid Andersen /s/
Arvid Andersen, Commissioner

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

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

The Union, in initiating this proceeding, filed a single petition wherein it requested the Board to conduct a representation election among "all craft, clerical, foremen and common labor employes of the Utilities Departments and General City" of the City of River Falls. At the hearing it was disclosed that said employes are actually employed in three separate departments of the Municipal Employer, the Utility, Sanitation and Street Departments. The parties stipulated with respect to employes who were confidential and supervisory employes, with the exception as

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noted below, and as to their exclusion. The parties also stipulated that employees classified as lineman and diesel generator operators were craft employees. The Union would have included said craft employees in one over-all unit with other eligible employees. The Municipal Employer would have them excluded. Since no issue exists as to the craft status of the lineman and diesel generator operator classifications, the Board must, pursuant to Sec. 111.70 (4) (d) of the Wisconsin Statutes, exclude them from the over-all unit and said employees can only be included in a craft unit consisting of employees performing the same craft work. Although the same provision of the statutes requires separate petitions to be filed for each craft group, the Municipal Employer indicated that it had no objection to the conduct of elections among the employees in separate craft units. Following the hearing and prior to any action by the Board, the Union, in writing, withdrew its objections to separate elections.

At the hearing issues arose concerning the eligibility of three employees to participate in the election involving Unit No. 1. The Municipal Employer would exclude Jim Mertens and Richard Pederson, claiming that they are temporary employees, and further, contends that Donald Johnson should be excluded for the reason of his supervisory status. The Union contends that all three employees should be included among the eligibles.

Generally the Municipal Employer does not consider employees to be regular unless their employment is acknowledged by resolution of the City Council. Mertens, whose employment has not been so acknowledged, was hired in June, 1963 as a laborer in the Street Department for a special building project which was to be completed during that summer. However, Mertens has been retained in employment continuously and has not been given any notification of an early termination. Despite the additional fact that Merten's hourly wage is considerably below that of regular

employees, his employment period has been extended to such an extent that we conclude he is eligible to participate in the election.

Richard Pederson, on the other hand, was hired on April 7, 1964 for a ten-week period and therefore he, as a casual employee, is not eligible to participate in the election.

Donald Johnson, the Street Department Foreman, reports to the Street Commissioner, who is responsible for the operation of the Street Department. Johnson works with and exercises some supervision over the six other employees in the Street Department. Although the City claims Johnson can effectively recommend to the Street Commissioner the hiring and firing of other Street Department employees, he has never had occasion to exercise such authority, and, furthermore, the fact that Johnson receives 17 cents per hour more than the hourly rate paid other regular Street Department employees does not in itself establish such supervisory characteristics so as to exclude him from the eligibles. The Board concludes that Johnson by reason that responsibilities for the overall control and direction of the seven-man Street Department rests with the Street Commissioner, and by reason of Johnson's limited authority and his time spent in work similar to other regular employees, is a working foreman and, as such, shall be included among the eligibles.

Dated at Madison, Wisconsin, this 15th day of May, 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