

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of
LOCAL 1127, affiliated with DISTRICT
COUNCIL 48 OF THE AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO
Involving Employes of
THE POLICE DEPARTMENT in the CITY OF
GREENFIELD, excluding the Chief thereof

Case III
No. 10359 FF-74
Decision No. 7252

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., for the Petitioner.
Mr. Charles G. Panosian, City Attorney, and Alderman Jack Freitag, for the Municipal Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW
CERTIFICATION OF RESULTS OF INVESTIGATION
AND ORDER APPOINTING FACT FINDER

Local 1127, affiliated with District Council 48 of the American Federation of State, County and Municipal Employees, AFL-CIO, having petitioned the Wisconsin Employment Relations Board to initiate fact finding, pursuant to Section 111.70 of the Wisconsin Statutes, on behalf of certain employes of the Police Department in the City of Greenfield; and on July 15, 1965, the Board issued a Notice setting hearing in the matter for July 30, 1965; and prior to any further action by the Board, and on July 27, 1965 the City of Greenfield, by its Attorney, commenced an action in the Milwaukee County Circuit Court, seeking an order restraining the Board from proceeding on the fact finding petition filed by said labor organization; and on July 27, 1965, the Honorable Harvey L. Neelen, Circuit Judge for the County of Milwaukee, issued an order to show cause why said labor organization should not be enjoined from negotiating for the police personnel in the employ of the City of Greenfield and further why the Board should not be enjoined from proceeding on the petition; and on August 4, 1965, hearing on the order to show cause having been held before the Honorable Elmer W. Roller, Circuit Judge for the County of Milwaukee, and on the same date the Honorable Elmer W. Roller having issued a decision wherein, among other things, he denied, in all respects, the petition of the City of Greenfield; and thereupon and on August 6, 1965, the Board having conducted a hearing on the fact finding petition at Greenfield, Wisconsin, Commissioner Zel S. Rice II being present, and the Board having considered the evidence and arguments of

Counsel, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law, Certification of Results of Investigation and Order Appointing Fact Finder.

FINDINGS OF FACT

1. That Local 1127, affiliated with District Council 48 of the American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the Petitioner, is the designated representative of the majority of the non-supervisory members of the Police Department of the City of Greenfield, Wisconsin, having the power to make arrests.

2. That the City of Greenfield, hereinafter referred to as the Municipal Employer, is a City located in the State of Wisconsin and has its offices at the City Hall, 7325 West Forest Home Avenue, Greenfield, Wisconsin.

3. That at all times material herein, the Petitioner has represented all of the non-supervisory employes of the Municipal Employer's Police Department having the power to make arrests; that the Petitioner served a written demand on the Municipal Employer to negotiate with the Petitioner as the representative of the employes in the Police Department; that the Municipal Employer informed the Petitioner that it would not recognize nor negotiate with the Petitioner and has refused to meet and negotiate with the Petitioner at reasonable times in a bona fide effort to arrive at a settlement.

4. That the Municipal Employer has not established any fact finding procedure substantially in compliance with Section 111.70 of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. That the City of Greenfield has refused to meet and negotiate with the representative designated by the non-supervisory employes of the Police Department of the City of Greenfield with the power to make arrests within the meaning of Section 111.70 (4) (e) of the Wisconsin Statutes.

2. That within the meaning of Section 111.70 (4) (e), the collective bargaining unit appropriate for the purposes of the instant fact finding proceeding consists of all the non-supervisory members of the Police Department of the City of Greenfield having the power to make arrests, excluding the Chief of Police.

Upon the basis of the above and foregoing Findings of Fact, and Conclusions of Law, the Board makes and issues the following
CERTIFICATION AND ORDER

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of fact finding as required by Section 111.70 (4) (e) of the Wisconsin Statutes have been met.

NOW, THEREFORE, it is

ORDERED

1. That fact finding be initiated for the purpose of recommending a solution to the dispute.
2. That Thomas Whelan of Milwaukee, Wisconsin, is hereby appointed as fact finder to proceed forthwith in said matter pursuant to Section 111.70 (4)(g) of the Wisconsin Statutes.

Given under our hands and seal at the City of Madison, Wisconsin, this 13th day of August, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By *Morris Slavney*
Morris Slavney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

Zel S. Rice II
Zel S. Rice II, Commissioner



STATE OF WISCONSIN

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LOCAL 1127, affiliated with DISTRICT	:	
COUNCIL 48 OF THE AMERICAN FEDERATION	:	
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	:	Decision No. 7252
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Chief thereof.	:	
	:	
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MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW, CERTIFICATION OF RESULTS OF
INVESTIGATION AND ORDER APPOINTING FACT FINDER

The Petitioner was designated by all the members of the Police Department of the City of Greenfield, except the Chief of Police, to represent them in negotiations with the City concerning wages, hours and conditions of employment, and following said designation the Petitioner served a written request upon the City of commence negotiations in such matters. The City informed the Petitioner that it would neither recognize it as the representative of its police officers, nor negotiate with it. Thereupon and on July 9, 1965, the Petitioner filed a petition with the Board requesting the Board to initiate fact finding. The Board set hearing on said petition for Friday, July 30, 1965. The City attempted to restrain the Board from proceeding in the matter. The Milwaukee County Circuit Court denied such request.

The City contends that it has the right to refuse to negotiate and to meet with the designated representative of its police officers and that Section 111.70 prohibits members of a police department from joining a labor organization which generally represents municipal employes other than police officers. There is no provision in Section 111.70 which prohibits or limits members of a police department from joining or designating any type of employe organization as their designated representative to meet with their municipal employer on questions of wages, hours and conditions of

employment. While the Statute does not explicitly protect the rights of police officers to join or not to join any organization, there is no limitation on their right to designate either an individual or any organization as their representative for the purposes of fact finding. The language of the statute permits the police officers to designate as their representative one of the petitioners "or otherwise". The statutory language is explicitly clear and the only limitation attached to the right of police officers to proceed to fact finding is that their representative must be designated by a majority of the officers involved and the statute leaves them entirely free to choose their own representative.^{1/} The City concedes that the Petitioner has been designated by a majority of its police officers. It also admits that it has refused to engage in conferences and negotiations with the Petitioner. Therefore, the conditions for the initiation of fact finding exist and we have herewith appointed the fact finder.

During the course of the hearing, an issue arose as to whether the clerk-trainee position should be included in the unit for the purposes of the fact finding proceeding. The clerk-trainee performs general clerical duties and does not have the power to make arrests. He performs the same work as the female clerk who works in the department but is required to take in-service training with the rest of the members of the Police Department who have the power to make arrests. The present clerk-trainee has taken the patrolmen's exam and will be hired as a patrolman when a vacancy exists. Until then, he will remain a clerk-trainee, a position not considered to fall within the term "law enforcement personnel." We conclude that the clerk-trainee is not a member of the bargaining unit and thus is not to be included among the employes participating in the fact finding.

Dated at Madison, Wisconsin, this 13th day of August, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By *Morris Slaveney*
Morris Slaveney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

Zel S. Rice II
Zel S. Rice II, Commissioner

1/ Shawano County Sheriff & Traffic Department, Dec. No. 7051, 3/65.