

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of

WAUKESHA PROFESSIONAL POLICEMEN'S  
PROTECTIVE ASSOCIATION

To Initiate Fact Finding Between  
Said Petitioner and

CITY OF WAUKESHA  
(POLICE DEPARTMENT)

Case V  
No. 10561 FF-87  
Decision No. 7388

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

Waukesha Professional Policemen's Protective Association, Waukesha, Wisconsin, having filed a petition with the Wisconsin Employment Relations Board to initiate fact finding pursuant to Section 111.70 of the Wisconsin Statutes on behalf of the employees of the Police Department of the City of Waukesha; and the Board, by Commissioner Zel S. Rice II, having, on December 2, 1965, conducted an informal investigation in the matter to establish the material facts with regard thereto; and prior to any further action by the Board, the Petitioner having moved to reopen the hearing to determine if a change of facts and circumstances had affected the supervisory status of the Chief of Police, Assistant Chief, Captain and Lieutenant; and said hearing having been conducted on December 29, 1965 at Waukesha, Wisconsin, Commissioner Zel S. Rice II being present; and the Board having received, reviewed and considered the report of said investigation and the subsequent hearing, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law, Certificate of Results of Investigation and Order Initiating Fact Finding and Appointing Fact Finder.

FINDINGS OF FACT

1. That Waukesha Professional Policemen's Protective Association, hereinafter referred to as the Petitioner, is an organization having its offices at Waukesha, Wisconsin.

2. That the City of Waukesha, hereinafter referred to as the Municipal Employer, is a City located in the State of Wisconsin, having its offices in the City Hall, Waukesha, Wisconsin.

3. That the Petitioner, at all times material herein, has been, and is, the representative of a majority of the non-supervisory and supervisory members of the Police Department of said Municipal Employer.

4. That on November 12, 1965, the Petitioner filed a petition with the Wisconsin Employment Relations Board, hereinafter referred to as the Board, wherein it requested the Board to initiate a fact finding proceeding pursuant to Section 111.70 of the Wisconsin Statutes; that therein the Petitioner alleged that it and the Municipal Employer were deadlocked after a reasonable period of negotiations for the years 1965 and 1966; and that it further alleged that the collective bargaining unit was composed of all members of the Police Department of the Municipal Employer.

5. That the Chief of Police, Assistant Chief of Police, Captain and Lieutenant make work assignments and supervise the remaining officers of the Police Department of the Municipal Employer.

6. That the Petitioner and Municipal Employer are presently in dispute with respect to wages, hours and conditions of employment of the employes in the Police Department; and that despite negotiations for a reasonable period of time, the Petitioner and Municipal Employer remain in deadlock with regard to said issues.

7. That the Municipal Employer did not establish fact finding procedures 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 Chief of Police, Assistant Chief of Police, Captain and Lieutenant, the supervisory members of the Police Department of the City of Waukesha, are agents of the Police Department of the City of Waukesha with respect to the employment relationship between the City of Waukesha and non-supervisory members of its Police Department.

2. That such supervisory members of the Police Department of the City of Waukesha have no right to participate in any fact finding proceeding pursuant to Section 111.70 of the Wisconsin Statutes.

3. That Waukesha Professional Policemen's Protective Association is the recognized representative of the employes occupying non-supervisory positions in the Police Department of the City of Waukesha, within the meaning of Section 111.70 (4)(j) of the Wisconsin Statutes.

4. That a deadlock exists between Waukesha Professional Policemen's Protective Association and the City of Waukesha, after a reasonable period of negotiations with respect to wages, hours and working conditions affecting said non-supervisory employes represented by said Petitioner, within the meaning of Section 111.70 (4)(e) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact, Conclusions of Law, the Board makes 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 with respect to the negotiations, involving non-supervisory employes, between the Waukesha Professional Policemen's Protective Association and the City of Waukesha have been met.

NOW, THEREFORE, it is

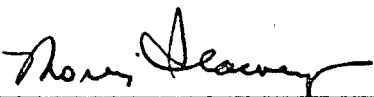
ORDERED


1. That fact finding be initiated for the purpose of recommending a solution of said dispute.


2. That Reynolds C. Seitz, Milwaukee, Wisconsin, is hereby appointed as the fact finder to proceed forthwith in the matter, pursuant to Section 111.70 (4)(e) of the Wisconsin Statutes.

Given under our hands and seal at the City of Madison, Wisconsin, this 10th day of January, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By   
Morris Slavney, Chairman

  
Arvid Anderson, Commissioner

  
Zel S. Rice II, Commissioner

STATE OF WISCONSIN

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MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION OF LAW,  
CERTIFICATION OF RESULTS OF INVESTIGATION  
AND ORDER INITIATING FACT FINDING AND APPOINTING FACT FINDER

At the initial investigation, the parties agreed that those employees of the Municipal Employer's Police Department having the rank of Lieutenant or above were supervisory and should not be included in the bargaining unit. Subsequent to the informal investigation, Harold T. Owens, Mayor of the Municipal Employer, issued certain orders with regard to the operation of the Police Department. These orders were set forth in letters addressed to the Chief of Police and directed the transfer of the ambulance service and rescue squad calls from the Police Department to the Fire Department; directed that police squad cars be operated with one patrolman during the daylight hours in order to free more men for patrol and traffic duty on the streets; directed that the Assistant Chief be transferred to the night detail to work with the early and late shifts; and directed the use that could be made of one of the department's vehicles.

The orders issued by the Mayor do not affect the supervisory status of the Chief of Police, Assistant Chief, Captain and Lieutenant. The Chief continues to exercise responsibility for recommending hiring and the promotion of employees and disciplinary action. He makes work and shift assignments. He establishes rules and regulations for the department and exercises his own judgment with respect thereto. He had continued to perform the same supervisory functions before as well as after the issuance of the orders by the Mayor, subject to the limitations established by the Mayor. The Assistant Chief also continues to exercise the same responsibilities and duties and performs the same supervisory

functions previously performed within the limitations set forth in the Mayor's orders. The Captain continues to supervise the Juvenile Bureau and to act as general supervisor when the Chief or Assistant Chief are absent. The Sergeants continued to report directly to the Captain and he continues to supervise the Sergeants and Patrolmen. The Lieutenant continues to supervise the men assigned to the Detective Bureau. He makes the work assignments and directs the method of operation and supervises investigations. He reports directly to the Chief and continues to operate in the same manner as he had prior to the issuance of the Mayor's orders.

The orders of the Mayor do not remove the Chief, Assistant Chief, Captain and Lieutenant from the status of supervisors. It is still the duty of the supervisory officers to make the individual work assignments and supervise the performance of these assignments by the employes within the department. There are 60 men in the Municipal Employer's Police Department and the department can not operate with the Mayor as its only supervisor.

Dated at Madison, Wisconsin, this 10<sup>th</sup> day of January, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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