

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of  
WAUWATOSA BOARD OF EDUCATION  
Involving Employees of  
WAUWATOSA BOARD OF EDUCATION  
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: Case IV  
: No. 10658 ME-230  
: Decision No. 7472  
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ORDER OF DISMISSAL

The Wauwatosa Board of Education having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, to determine whether all employees employed in the Maintenance Department of the Wauwatosa Board of Education, including maintenance carpenter, electrician, painter, plumber, maintenance mechanic, utility repairmen, grounds custodian and utility laborers assigned to the Maintenance Department, but excluding all custodial and cafeteria employees, clerical employees, professional employees, supervisors and executive and administrative employees, desire to constitute themselves an appropriate collective bargaining unit; and said petition also having reflected that Local 1561 and District Council 48, affiliated with the American Federation of State, County, and Municipal Employees, AFL-CIO, claimed to represent the employees in the unit claimed to be appropriate; and hearing on such petition having been conducted at Milwaukee, Wisconsin, on February 8, 1966, Chairman Morris Slavney and Commissioner Zel S. Rice II, being present; and the Board having considered the evidence, and being satisfied that no question of representation presently exists among the employees in the proposed collective bargaining unit;

NOW, THEREFORE, it is

ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

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

No. 7472

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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

In its petition, the Municipal Employer contends that the employees of its Maintenance Department constitute a separate department, and therefore, should be given the opportunity to determine for themselves whether they desire to establish a separate collective bargaining unit as permitted under Section 111.70(4) and Section 111.02(6) of the Wisconsin Statutes. It is to be noted that among the employee classifications which the Municipal Employer would include in the unit are maintenance carpenter, electrician, painter and plumber.

On January 7, 1963, the Municipal Employer and the Labor Organization involved herein executed a stipulation requesting the employees, including the stock clerk and all cooks, but excluding the electrician, carpenters, clerical employees, and all other employees, supervisors, professional employees, and executives of the Municipal Employer. Pursuant to that stipulation, the Board conducted an election among the employees in the stipulated unit, and following said election, and on March 6, 1963, certified the Labor Organization as the collective bargaining representative of the employees in said unit.<sup>1/</sup> Since that time, and at least up until the date of the filing of the instant petition, the Municipal Employer has recognized said Labor Organization as the collective bargaining representative for said employees.

On November 26, 1965, the Labor Organization filed a petition requesting the Board to conduct a representation election involving

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<sup>1/</sup> Case II, Dec. No. 6219.

the carpenter employe, which was one of the two classifications excluded from the unit previously agreed upon.<sup>2/</sup> The other classification was that of electrician. During the hearing on said petition, the Municipal Employer contended that the carpenter was not a craft employe, and therefore, should be included in a unit of other maintenance employes. The Board has today, in Decision No. 7471, directed an election involving the carpenter, having found that the position does require craft skills, and therefore, the position constitutes an appropriate unit.

During the hearing on the instant petition, issues arose with respect to the timeliness of the filing of said petition, and also with respect to the appropriateness of the unit requested by the Municipal Employer. At the hearing, the Board conditionally limited the taking of evidence to the timely filing of the petition, and advised the parties that if it should find that the petition was timely filed, it would then reopen the hearing to obtain evidence and argument on the remaining issue.

Following the original Certification issued by the Board in Case II, representatives of the parties engaged in collective bargaining on wages, hours and working conditions for employes employed in the unit established in that case, and in that regard, during the fall of 1965, they continued their bargaining on conditions of employment for the year 1966. On January 10, 1966, the Municipal Employer adopted a resolution effectuating changes in wages, hours and other conditions of employment for the employes occupying the classifications included in the unit certified in Case II. Said conditions of employment became effective January 1, 1966, and shall remain in effect to at least December 31, 1966. The wages, hours and working conditions affecting the employes in the established unit have been compiled by the Municipal Employer in a 28-page booklet, which contains the conditions of employment as affected by by-laws, resolutions and agreements which have been reached from time to time by the parties.

We deem the recently adopted resolution, and the provisions thereof as reflected in the personnel booklet, as constituting a bar to the present determination of representatives, as well as a bar to a present unit vote. Any election on the petition of the Municipal Employer at this time, whether to establish a new bargaining unit, or bargaining representative, might very well result in a voidance


of the recently effective resolution adopted after the normal course of bargaining. To conduct an election for either purpose at this time would not effectuate the purposes or policies of Section 111.70 of the Wisconsin Statutes, and we are therefore dismissing the petition.


Since the petition is deemed as being untimely filed, it is not necessary to determine the additional issue raised, and therefore, it is not necessary to reopen the hearing to take evidence with that particular issue. Therefore, the hearing in this proceeding is deemed closed.

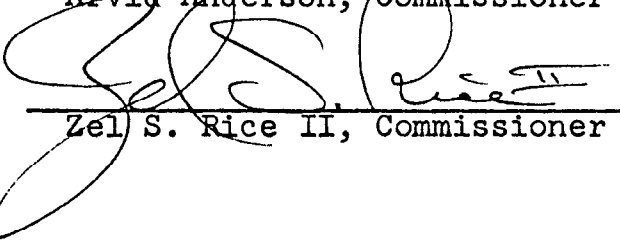
Dated at Madison, Wisconsin, this 10th day of February, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

  
Morris Slavney, Chairman

  
Arvid Anderson, Commissioner

  
Zel S. Rice II, Commissioner