

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :

LOCAL 33 and DISTRICT COUNCIL 48 of :
the AMERICAN FEDERATION OF STATE, :
COUNTY, AND MUNICIPAL EMPLOYEES, :
AFL-CIO :

Case XLI
No. 10689 FF-97
Decision No. 7544

To Initiate Fact Finding Between :
Said Petitioner and :

CITY OF MILWAUKEE :
-----:

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

Local 33 and District Council 48, American Federation of State, County, and Municipal Employees, AFL-CIO having filed a petition with the Wisconsin Employment Relations Board to initiate fact finding, pursuant to Section 111.70 of the Wisconsin Statutes, with respect to the deadlock existing between said organizations and the City of Milwaukee concerning the cold weather policy for employees employed in the Bureau of Street Sanitation in the Department of Public Works of the City of Milwaukee and also with respect to the assignment of laborers in the employ of the City of Milwaukee as helpers on snow plows and removal equipment; and Neil M. Gundermann, a member of the Board's staff, having participated in mediation efforts to resolve the deadlock over said issues; and the parties having been unable to resolve the issues during said mediation; and said staff member having submitted a detailed report with respect to the matter; and the Board having reviewed and considered said report, 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 Initiating Fact Finding and Appointing Fact Finder.

FINDINGS OF FACT

1. That Local 33 and District Council 48, American Federation of State, County, and Municipal Employees, AFL-CIO, hereinafter jointly referred to as the Petitioner, are labor organizations representing certain employees in the employ of the City of Milwaukee, with

offices at 615 East Michigan Street, Milwaukee, Wisconsin.

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

3. That the Petitioner, at all times material herein, has been, and is, the representative of the majority of the employees employed by the City of Milwaukee in the Department of Public Works, including employees in the Bureau of Street Sanitation, and excluding confidential, supervisory and executive employees; and that in that capacity, the Petitioner and the Municipal Employer are parties to a collective bargaining agreement covering said employees, which agreement provides, among other things, for the adjustment, by fact finding, of issues arising as to the reasonableness of work rules covering said employees.

4. That prior to February 8, 1966, the date upon which the instant petition was filed, the Petitioner raised an issue with the Municipal Employer as to the reasonableness of its policy with reference to duties performed by employees in the Bureau of Street Sanitation during cold weather, and also with reference to the assignment of employees classified as laborers in the Bureau of Street Sanitation as helpers on snow plowing and removal equipment; that after a reasonable period of negotiations, the Petitioner and Municipal Employer have been unable to resolve such issues and remain deadlocked with respect to same.

5. That the issue with respect to the reasonableness of the work rule presently governing assignment of laborers on snow plowing and removal equipment involves laborers employed in the bargaining unit represented by the Petitioner, and also laborers employed in the Bureau of Garbage Collection and Disposal and who are included in an appropriate collective bargaining unit, which consists of employees duly represented by Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO, an organization other than the Petitioner herein.

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

CONCLUSIONS OF LAW

1. That Local 33 and District Council 48, American Federation of State, County, and Municipal Employees, AFL-CIO, is the certified

representative of the employees, including laborers, employed in the Bureau of Street Sanitation, within the meaning of Section 111.70(4)(j) of the Wisconsin Statutes.

2. That Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO is the duly authorized representative of certain employees, including laborers, employed in the Bureau of Garbage Collection and Disposal, within the meaning of Section 111.70(4)(j) of the Wisconsin Statutes.

3. That a deadlock exists between Local 33 and District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO and the City of Milwaukee after a reasonable period of negotiations with respect to the reasonableness of work rules involving the cold weather policy governing employees in the Bureau of Street Sanitation and with regard to the assignment of laborers employed in the Bureau of Street Sanitation and the Bureau of Garbage Collection and Disposal, within the meaning of Section 111.70(4)(e) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and 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 issue between Local 33 and District Council 48, American Federation of State, County, and Municipal Employees and the City of Milwaukee, as to the reasonableness of work rules governing cold weather policy and the assignment of employees as helpers on snow plowing and removal equipment, have been met.

NOW, THEREFORE, it is

ORDERED

1. That fact finding be initiated for the purpose of recommending a solution of said issues existing between Local 33 and District Council 48, American Federation of State, County, and Municipal Employees, AFL-CIO and the City of Milwaukee.


2. That since employees employed in the Bureau of Garbage Collection and Disposal are affected by the issue with respect to the assignment of laborers as helpers on snow plowing and removal equipment, their duly authorized representative, Public Employees

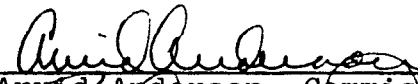
Union, Local No. 61, Laborers' International Union of North America, AFL-CIO, either on its own motion or on the motion of either of the parties herein, duly made to the fact finder, may be made a party to the fact finding proceeding, and shall be obligated to share in the cost thereof as determined by the fact finder.

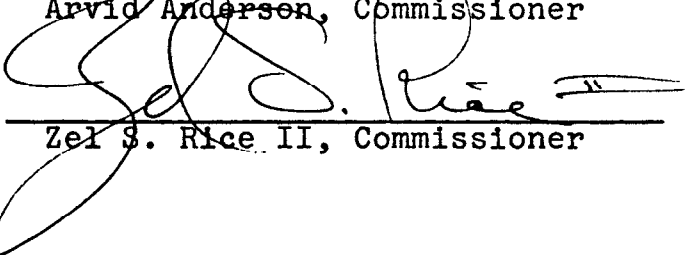
3. That Emmert L. Wingert, Madison, Wisconsin, is hereby appointed as the fact finder to proceed forthwith in the matter pursuant to Section 111.70(4)(e) of the Wisconsin Statutes.

Given under our hands and seal at the City of Madison, Wisconsin, this 14th day of April, 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, CONCLUSIONS
OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION
AND ORDER INITIATING FACT FINDING AND
APPOINTING FACT FINDER

One of the issues in deadlock between the Petitioner and the Municipal Employer involves the assignment of laborers as helpers in snow emergency situations. Traditionally, such work has been assigned to employees classified as laborers, who are employed in the Bureau of Street Sanitation and in the Bureau of Garbage Collection and Disposal. The Petitioner contends that the rules with respect to such assignments are unreasonable in that employees in the Bureau of Garbage Collection and Disposal are given more favorable treatment than are employees in the Bureau of Street Sanitation.

The employees involved in the Bureau of Garbage Collection and Disposal are in a separate collective bargaining unit and are represented by Public Employees Union, Local 61, Laborers' International Union of North America, AFL-CIO. Inasmuch as the latter issue involves employees in another unit, represented by another labor organization, the latter labor organization, Public Employees Union, Local 61, Laborers' International Union of North America, AFL-CIO, as the representative of the employees in the Bureau of Garbage Collection and Disposal, has a vital interest in said dispute and it may, if it so desires, become a party, on its own motion to the instant fact finder, or, either the Petitioner or the Municipal Employer may move the fact finder to make Public Employees Union,

Local No. 61, Laborers' International Union of North America, AFL-CIO a party to the fact finding proceeding. If Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO does not voluntarily choose to become a party and refuses to participate in any way in the fact finding, the Board will not process any fact finding petition filed by it with respect to that issue.

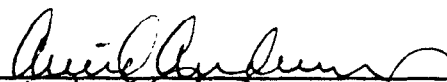
If Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO becomes involved in the fact finding, either on its own motion or at the request of either the Petitioner or the Municipal Employer, the fact finder should determine the expenses, if any, incurred by Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO in the fact finding proceeding.

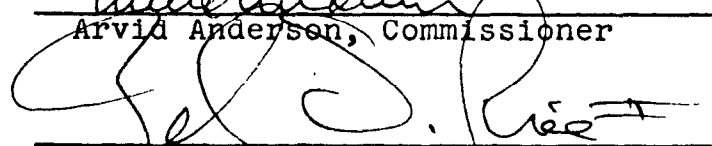
The remaining issue does not involve any employees represented by Public Employees Union, Local No. 61, Laborers' International Union of North America, AFL-CIO and, therefore, the latter organization has no right, nor is it obligated, to participate in fact finding with respect to that issue.

Dated at Madison, Wisconsin, this 14th day of April, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By 
Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner