

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD.

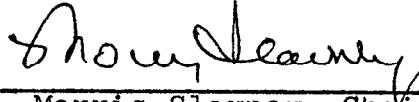
Case III
No. 10791 ME-240
Decision No. 7665


No. 7665


Tool House Office, Wildwood Cemetery and Sewerage Treatment Plant excluding elected officials, department superintendents, assistant superintendents, supervisors and City Hall employees, who were employed by said Municipal Employer on July 15, 1966, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employees desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, City of Sheboygan Employees Local 1750, or by City Employees Association of Sheboygan, Wisconsin, or by neither of such organizations, for the purposes of conferences and negotiations with the City of Sheboygan 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 July, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By 
Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner



STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of

WISCONSIN COUNCIL OF COUNTY AND MUNICIPAL
EMPLOYEES, AFSCME, CITY OF SHEBOYGAN EMPLOYEES:
LOCAL 1750

Involving Employees of

CITY OF SHEBOYGAN STREETS AND SANITATION
DEPARTMENT, PARK DEPARTMENT, MUNICIPAL
AUDITORIUM & ARMORY, TOOL HOUSE OFFICE,
WILDWOOD CEMETERY AND THE SEWERAGE
TREATMENT PLANT

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the outset of the hearing the City Employees Association of Sheboygan, Wisconsin moved to intervene in the matter contending that it represented a number of employees working in the unit claimed appropriate by the Wisconsin Council of County and Municipal Employees, AFSCME, City of Sheboygan Employees Local 1750, and that, in fact, it had bargained for these employees since 1959. No formal recognition had been granted to said organization pursuant to a Wisconsin Employment Relations Board election or by the City but the City had dealt with the Association since 1959 when a previously recognized union had relinquished its representative status of the City employees.

The Petitioner challenged the status of the Association as a bona fide labor organization. The Board concludes that the Association qualifies as a labor organization within the meaning of Section 111.70, Wisconsin Statutes, and was properly permitted to intervene. The evidence establishes that the Association exists for the purpose of representing the employees in conferences and negotiations with the City on wages, hours and conditions of employment, that it has done so for many years and that it has currently been granted at least informal recognition by the City

in that it bargains on wages and working conditions and has developed and utilized a grievance procedure for the purpose of presenting employee complaints to the City. No reason was adduced at the hearing to deny this organization a place on the ballot.

Following extensive testimony, the parties stipulated to the following unit as being the appropriate collective bargaining unit:

"All full time and regular part time employees in the Street and Sanitation Department, Park Department, Municipal Auditorium and Armory, Tool House Office, Wildwood Cemetery and Sewerage Treatment Plant excluding elected officials, department superintendents, assistant superintendents, supervisors and City Hall employees."

During the course of the hearing issues arose with respect to the inclusion of individuals occupying the classifications of Public Works Foreman I and Public Works Foreman II within the bargaining unit. In addition, an issue arose as to whether a truck driver, D. Spelshaus, should be excluded from the unit. The Petitioner desired to exclude such positions as supervisory. The Association would exclude only two of said positions. The City took no active position with respect to said issues.

During the course of the hearing the parties agreed to exclude, as supervisory, Edwin Seifert, employed in the Cemetery Division and also Cornelius Bayens, employed in the Park Department.

Seven of the eight remaining positions in issue are employed in the Street and Sanitation Division of the City. In said Division the various crews assemble at the commencement of the work day and receive instructions and work assignments from the division superintendent who is primarily responsible for the scheduling of work, assignment of men and equipment, and for the administrative functions of the division. The individuals occupying the positions in question exercise little independent judgment in assigning work and directing the work force and have limited effective authority to discipline employees. Generally they spend a majority of their time performing duties similar to those performed by employees in their various crews and they receive no additional wages for performing supervisory duties.

The Board concludes that the following individuals are working foremen and shall be included in the unit for the reasons noted below:

A. Champeau - Public Works Foreman II

In charge of a crew of 3 to 4 men in street and sewer maintenance but spends virtually no appreciable time performing supervisory duties.

J. Jenko - Public Works Foreman II

Responsible for a 7-man crew three months of the year but spends no appreciable time performing supervisory duties.

J. Kraus - Public Works Foreman II

In charge of a crew of 3 to 12 men for twelve months of the year in weed cutting and snow removal but spends only 50% of his time in supervisory functions.

J. Scheidel - Public Works Foreman I

In charge of a crew of 5 or 6 men in sewer maintenance during the year but devotes only 25% of his time to supervision.

G. Westphal - Public Works Foreman I

Responsible for 4 to 6 man crew for six months of the year in snow removal where he devotes 100% of his time as a supervisor. However, the remaining six months is spent as an employee without any supervisory functions.

D. Spelshaus - Truck Driver

Supervises a crew of 15 men during the year in snow removal and street paving but devotes only 50% of his time in supervisory duties.

The Board has concluded that D. Hajenga-Public Works Foreman I is a supervisor and is excluded from the unit for the reason that he is responsible for a crew of 45 employees in garbage collection twelve months of the year and because he devotes 100% of his time to supervision. No evidence was offered with respect to the duties and responsibilities of R. Mahler, Public Works Foreman I, in the Park Department. Mahler shall be permitted to vote subject to being challenged on the issue of supervisory status.

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