

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of	:	
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STAFF NURSES COUNCIL OF MILWAUKEE	:	Case XVII
	:	No. 11066 FF-112
To Initiate Fact Finding	:	Decision No. 7800
Between said Petitioner and	:	
	:	
MILWAUKEE COUNTY	:	
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Appearances:

Lamfrom, Peck, Ferebee & Brigden, Attorneys at Law, by Mr. Willis B. Ferebee, for the Petitioner.

Robert P. Russell, Corporation Counsel, by Mr. Robert G. Polasek, Assistant Corporation Counsel, for the Municipal Employer.

FINDINGS OF FACT, CONCLUSION OF LAW, CERTIFICATION,
AND ORDER INITIATING FACT FINDING
AND APPOINTING FACT FINDER

Staff Nurses Council of Milwaukee having, on September 29, 1966, filed a petition with the Wisconsin Employment Relations Board to initiate fact finding, pursuant to Section 111.70 of the Wisconsin Statutes, wherein said Petitioner alleged that Milwaukee County had failed and refused to meet and negotiate at reasonable times with representatives of the Petitioner with regard to unilateral action taken by said Municipal Employer with respect to wages affecting employees represented by said Petitioner; and the Board having conducted a hearing on said petition at Milwaukee, Wisconsin, on October 6, 1966, Chairman Morris Slavney and Commissioner Arvid Anderson being present; and the Board having reviewed the evidence and arguments of Counsel, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusion of Law, Certification, and Order Initiating Fact Finding and Appointing Fact Finder.

FINDINGS OF FACT

1. That Staff Nurses Council of Milwaukee, hereinafter referred to as the Petitioner, is an organization representing municipal

3. That on December 10, 1965, after an election had been conducted by it, the Wisconsin Employment Relations Board certified the Petitioner as the exclusive collective bargaining representative for all regular full time and regular part time registered nurses in the employ of the Municipal Employer in its various departments, excluding confidential employees, supervisors, department heads, and exempt positions.

4. That on June 1, 1966, representatives of the Petitioner and the Municipal Employer entered into the following Memorandum of Agreement, which was subsequently ratified by the membership of the Petitioner and the Milwaukee County Board, on June 14 and June 21, 1966, respectively:

"This memorandum records a tentative agreement reached on all items between the parties for the year 1966. The negotiating committee of the Staff Nurses Council of Milwaukee and the negotiating team for the County of Milwaukee, agree to recommend this agreement to their principles for ratification and adoption. Wherever necessary, county ordinances will be amended to implement the agreements herein contained. With respect to any and all items not listed below, it is understood that the parties have agreed that present ordinances and resolutions will remain unchanged.

1. The county agrees to pay one-half of the present cost (\$4.76 per month) of the Blue Cross-Blue Shield family plan, effective July 1, 1966 and the full cost thereof, effective with the 1967 budget year, with no change in the present benefits.
2. The county agrees to pay the employees' contribution for group life insurance for the first \$6,000 of such insurance, beginning July 1, 1966.
3. It is understood that the Council has specifically withdrawn all other 1966 requests."

5. That on July 24, 1966, without notification to, or consultation with, or bargaining with, any representative of the Petitioner, the Municipal Employer enacted an ordinance whereby it amended the salary range of Nursing Instructor I, a position in the collective bargaining unit represented by the Petitioner, from pay range 13 to pay range 15.

6. That on September 2, 1966, during a meeting wherein representatives of the Petitioner and the Municipal Employer were meeting

in negotiations on wages, hours and conditions of employment, for the year 1967 with respect to conditions of employment affecting employees represented by the Petitioner, representatives of the Municipal Employer advised representatives of the Petitioner that the Municipal Employer intended to hire Graduate Nurse I's at the fourth step of their pay range, and Graduate Nurse II's at the third step of their pay range, rather than at the first step of each of said pay ranges; that at a similar meeting on September 6, 1966, representatives of the Petitioner requested of the representatives of the Municipal Employer that the Municipal Employer reallocate the pay ranges of Graduate Nurse I and II to higher pay ranges because of the Municipal Employer's intention to hire Graduate Nurse I's and II's at intermediate steps of their pay ranges; that on said occasion, representatives of the Municipal Employer refused to engage in collective bargaining with respect thereto, contending that the negotiations for the year 1966 had been consummated; and that also on September 15, 1966, representatives of the Municipal Employer again refused to bargain collectively with representatives of the Petitioner with respect to the matter.

7. That the Civil Service Commission of the Municipal Employer, on September 12, 1966, approved recruitment of Graduate Nurse I's and Graduate Nurse II's at the fourth and third steps of their respective pay ranges, and at the same time approved the advancement of Graduate Nurse I's and II's with less than one year of service to the fourth step in the ranges, and to those with one or more years of service to the fifth step in the range.

8. That the Municipal Employer, by failing and refusing to bargain collectively with the Petitioner with regard to its unilateral action above described, has refused to bargain in good faith with the Petitioner on said matters, and that as a result, the parties remain in dispute with respect thereto.

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

CONCLUSION OF LAW

1. That Milwaukee County, by instituting changes in the wage rates of Nursing Instructor I on July 24, 1966, and Graduate Nurse I and Graduate Nurse II on September 12, 1966, without affording Staff

Nurses Council an opportunity to confer and negotiate with Milwaukee County in regard to said matters, failed and refused to meet and negotiate in good faith with Staff Nurses Council 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 Conclusion 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 have been met, and it is therefore

ORDERED


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


2. That Thomas P. Whelan of 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 4th day of November, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By


Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner

STATE OF WISCONSIN

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To Initiate Fact Finding
Between said Petitioner and

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Case XVII

No. 11066 FF-112

Decision No. 7800

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

The Municipal Employer would have the Board dismiss the petition, contending that the unilateral action by the Municipal Employer, as found herein, was permissible, pursuant to the Memorandum of Agreement entered into by the Municipal Employer and the Petitioner covering wages, hours and working conditions for employees represented by the Petitioner for the year 1966.

The fact that existing ordinances empower the Municipal Employer to effectuate changes in salary ordinances, or to hire employees at ranges other than the first step in the pay range, does not permit such action without providing an opportunity for the Petitioner to bargain thereon. The action of the Municipal Employer constituted a change in the wages of employees in the bargaining unit without conferences and negotiations with their bargaining representative. The Petitioner, as the exclusive bargaining representative for said employees, has the right to bargain with respect to these matters, and the Municipal Employer has, at least for the purposes of a fact finding proceeding, the duty to bargain thereon with the Petitioner. The fact that the 1966 negotiations were consummated, and an agreement reached on conditions of employment for the year, does not permit the

instituting changes affecting wages without collective bargaining. There would have been no change in the effect on the 1966 budget had these changes been agreed upon through collective bargaining.

The Municipal Employer further argues that it is presently ready, willing and able to negotiate for the year 1967 on all matters which the Petitioner has requested to be negotiated for that year, including reallocation of the Graduate Nurse I and II positions, as well as the Nursing Instructor I position, and that in effect, its request to proceed to fact finding at this time with respect to the matters in issue in this proceeding would serve no purpose inasmuch as the recommendations by the fact finder, in all probability, would be made during the year 1967. Counsel for the Municipal Employer, we think, assumes too much, and although the fact finder may make a recommendation sometime in 1967, it may very well be that his recommendation might have retroactive application.

The substantial change in the hiring salaries of the Graduate Nurse I and II positions without conferences and negotiations with the Petitioner, as the exclusive collective bargaining representative, completely ignores the responsibility of the Petitioner to represent the employees for which it was certified as the exclusive collective bargaining representative, and the action by the Municipal Employer, under the circumstances as exist in this case, violates the letter and spirit of the Memorandum of Agreement entered into by the parties with respect to wages, hours and working conditions for the year 1966.

The Board is satisfied that an emergency exists with respect to the shortage of nursing personnel. However, the nature of the Municipal Employer's action with respect to meeting that emergency does not excuse it from its legal duty under Section 111.70. We have therefore found that the conditions for fact finding exist and have appointed the fact finder, who will proceed forthwith.

Dated at Madison, Wisconsin, this 1st day of November, 1966.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slayney
Morris Slayney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

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