

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :
OUTAGAMIE COURTHOUSE EMPLOYEES : Case V
LOCAL 1761, AFSCME, AFL-CIO : No. 10913 ME-255
Involving Certain Employes of : Decision No. 7868
OUTAGAMIE COUNTY :
-----:

Appearances:
Mr. Walter J. Klopp, Representative, for the Petitioner.
Mr. Albert W. Ponath, Corporation Counsel, for the Municipal Employer.
Mr. J. Joseph Cummings, Attorney at Law, for the Intervenor, Outagamie County Courthouse Employees Association.

DIRECTION OF ELECTIONS

Outagamie Courthouse Employees Local 1761, AFSCME, AFL-CIO having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employes of Outagamie County; and a hearing on such petition having been conducted at Appleton, Wisconsin, on July 26, 1966, by Robert M. McCormick, Examiner; and at the outset of the hearing, Outagamie County Courthouse Employees Association having been permitted to intervene in the proceeding on its claim that it represented certain employes of the Municipal Employer; and the Board, having considered the evidence and arguments of Counsel, and being satisfied that questions have arisen concerning the appropriate collective bargaining units and concerning representation for certain employes of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this Directive among employes in the following appropriate collective bargaining units:

UNIT NO. 1

All regular full time and regular part time maintenance, custodial and clerical employees employed by Outagamie County in its Courthouse, Courthouse Annex, and associated departments, including the Welfare Department, but excluding department heads, supervisors, nurses, caseworkers (Welfare Department), elected officials, court reporters, confidential secretary to the Corporation Counsel, all employees of the Sheriff and Traffic Department, and all other employees of Outagamie County, who were employed by the Municipal Employer on January 13, 1967, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented by Outagamie Courthouse Employees Local 1761, AFSCME, AFL-CIO, or by Outagamie County Courthouse Employees Association, or by neither of said organizations, for the purposes of conferences and negotiations with Outagamie County on questions of wages, hours and conditions of employment.

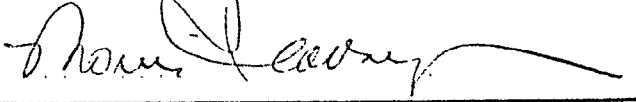
UNIT NO. 2


All case workers employed by Outagamie County in its Department of Welfare, excluding supervisors and office clerical employees, and all other employees of Outagamie County, who were employed by the Municipal Employer on January 13, 1967, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented by Outagamie County Courthouse Employees Association for the purposes of conferences and negotiations with Outagamie County on questions of wages, hours and conditions of employment.

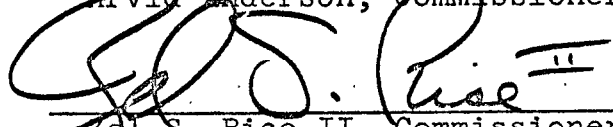
Given under our hands and seal at the City of Madison, Wisconsin, this 13th day of January, 1967.

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

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In the Matter of the Petition of :

OUTAGAMIE COURTHOUSE EMPLOYEES :
LOCAL 1761, AFSCME, AFL-CIO :

Involving Certain Employees of :

OUTAGAMIE COUNTY :
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Case V
No. 10913 ME-255
Decision No. 7868

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

Outagamie Courthouse Employees Local 1761, AFSCME, AFL-CIO, hereinafter referred to as Local 1761, initiated the instant election proceeding by filing a petition requesting the Board to conduct a representation election among certain employees of Outagamie County, employed in its Courthouse, Courthouse Annex and associated departments. At the outset of the hearing, Outagamie County Courthouse Employees Association, hereinafter referred to as the Association, was permitted to intervene on its claim that it represented employees in the unit alleged to be appropriate in the petition filed by Local 1761. During the course of the hearing, the parties stipulated that the following classifications of employees should be included in an appropriate collective bargaining unit, "all regular full time and regular part time maintenance, custodial and clerical employees employed by Outagamie County in the Courthouse, Courthouse Annex and associated departments." The parties stipulated to exclude from the unit "department heads, supervisors, nurses, professional employees, elected officials, court reporters, confidential secretary to Corporation Counsel, all employees of the Sheriff and Traffic Department, and all other employees of Outagamie County".

An issue arose during the course of the hearing with regard to the employees in the Welfare Department. Local 1761 contended that the employees therein should be excluded from the overall unit on the basis that the salaries of the employees therein are established by the State Department of Public Welfare, and in support of its position

cites the decision of the Wisconsin Supreme Court in Kenosha County Courthouse Local 990 vs. Kenosha County.^{1/} Local 1761 also contended that case workers in the Department of Public Welfare were professional employes, and should be excluded from the over-all unit, as required in Section 111.70(4)(d) of the Wisconsin Statutes.

The Association opposes the position of Local 1761, contending that the employes in the Welfare Department have a community of interest with the remaining employes stipulated by the parties to be included in the appropriate unit, that they work in the same buildings and use the same facilities such as lounge and canteen; that their fringe benefits are similar to those of other Courthouse employes which would be as much a subject for prospective bargaining as would the fringe benefits for other employes in the over-all unit. The Association further contends that though the State does establish the various salary levels, the County Board of Public Welfare may select which salary level will apply, a decision which may reflect the salary level bargained for by the certified bargaining representative. In the alternative, the Association would desire to be placed on the representation ballot if the employes in the Welfare Department are given the opportunity to establish a separate unit.

In the cited Supreme Court case, Local 990 commenced an action in Circuit Court seeking enforcement of an agreement between it and the Kenosha County Board of Supervisors which would have altered the salaries of employes of the Kenosha County Welfare Department, as well as those of other county employes. The County demurred on the ground that the state statute applicable to the functions of County Boards of Public Welfare, including personnel, deprived the County Board of Supervisors of authority to alter salaries of welfare department employes without the consent of the County Board of Public Welfare. The lower court sustained the demurrer. The Supreme Court construed Sections 46.22(3) [setting forth powers of county directors of public welfare and county boards of public welfare] and Section 59.15(2)(c) [covering the general authority of county boards to fix salaries of county employes] as manifesting a legislative intent to

^{1/} 30 Wis. 2d 279 (1966)

vest control of the compensation of welfare employes in the hands of the County Department of Public Welfare in order to maintain a statewide program of public welfare under centralized direction of the State Department of Public Welfare.

However, as our Supreme Court points out, the County Board of Supervisors does appropriate a portion of the funds for the operation of the county welfare department. For purposes of collective bargaining and prospective fact finding under Section 111.70, there is nothing preventing the County Board of Public Welfare from making the ultimate decision over questions of compensation changes for Welfare Department employes. This is true whether such changes are the product of direct negotiations between the bargaining representative and the County Board of Public Welfare, or whether they are a product of bilateral negotiations between the County Board, or its select committee, and an employe organization, which negotiated changes are later adopted by the County Board of Public Welfare. The participation of the State of Wisconsin with respect to the operation and function of the county welfare department, as described herein, does not deprive those who are employed in said county department of their employe status under Section 111.70 of the Wisconsin Statutes.^{2/}

The Municipal Employer employs a number of case workers in the Welfare Department. They perform their duties among client-residents in the county who are in need of financial and social services. They conduct investigations connected with admissions to public institutions and investigations for courts, the district attorney and the corporation counsel. Standards for the classification are established by the State Department of Public Welfare, and require that case workers possess a Bachelor Degree in Social Work, or in a related field, such as Education or Psychology. Some of the positions require a Master Degree. Employes seeking positions as case workers are certified by the State Bureau of Personnel at the direction of the State Department of Public Welfare, and case workers are hired by the Municipal Employer after they have qualified in examinations conducted by the State Bureau of Personnel. We are satisfied that

^{2/} See Superior Vocational School System (7479) 2/66.

under the circumstances, the case workers, because of their substantial period of study and training, and because of the requirements of the position, are professional employees and are considered by the Board as falling within the definition of the term "craft", within the meaning of Section 111.70(4)(d).^{3/} Therefore, case workers constitute an appropriate collective bargaining unit, separate and apart from all other employees of the Municipal Employer.^{4/} Of course, other employees of the Department are excluded from this particular unit. Stipulated as being supervisory case worker personnel are Thomas Slavin, Daniel Verstegen and Chester Luce, and therefore, said individuals are not included in the "case worker" unit.

Since all the employees of the Welfare Department cannot constitute a single department within the meaning of Section 111.05 of the Wisconsin Statutes, which provision governs the establishment of appropriate bargaining units in municipal employment, because of the fact that the case workers therein constitute a separate unit, the remaining otherwise eligible employees must, as a result, be included in the over-all unit, as set forth in the Board's Direction, and described as Unit No. 1.

Dated at Madison, Wisconsin, this 13th day of January, 1967.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney
Morris Slavney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

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

3/ Winnebago County Hospital (6043) 7/62.

4/ Douglas County (7831) 11/66.