

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
SHEBOYGAN COUNTY COURTHOUSE EMPLOYEES,	:	Case VIII
LOCAL 1749-C, AFSCME, AFL-CIO	:	No. 11690 ME-334
Involving Certain Employes of	:	Decision No. 8256-F
SHEBOYGAN COUNTY (COURTHOUSE EMPLOYEES)	:	

Appearances:

- Ms. Helen M. Isferding, District Representative, Sheboygan County Courthouse Employees, Local 1749-C, AFSCME, AFL-CIO, 2323 N. 29th Street, Sheboygan, Wisconsin 53081, appearing on behalf of the Petitioner.
- Mr. Alexander Hopp, Corporation Counsel, Sheboygan County, Hopp, Hodson & Powell, 601 North 5th Street, P. O. Box 128, Sheboygan, Wisconsin 53081, appearing on behalf of the Municipal Employer.

FINDINGS OF FACT, CONCLUSION OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

Sheboygan County Courthouse Employees, Local 1749-C, AFSCME, AFL-CIO, having on February 29, 1980 filed a petition requesting the Wisconsin Employment Relations Commission to clarify an existing collective bargaining unit consisting of certain employes of Sheboygan County; and hearing in said matter having been held on April 16, 1980 in Sheboygan, Wisconsin, Sherwood Malamud, a member of the Commission's staff being present; and the parties having exchanged their briefs by May 15, 1980; and the Commission having considered the evidence and arguments of the parties, hereby issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That Sheboygan County Courthouse Employees, Local 1749-C, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization representing employes for the purposes of collective bargaining, and has its offices at 2323 North 29th Street, Sheboygan, Wisconsin.
2. That Sheboygan County, hereinafter referred to as the County, is a municipal employer, and maintains its offices at the Sheboygan County Courthouse, Sheboygan, Wisconsin.
3. That following an election conducted by it, the Wisconsin Employment Relations Commission, in January, 1968 ^{1/} certified the Union as the exclusive collective bargaining representative of all regular full-time and part-time personnel employed by the County in the Courthouse, and in auxiliary departments and buildings, but specifically excluding therefrom all elected officials, supervisors, professional employes of the Welfare Department, employes of the Unified Board, deputized employes of the Sheriff's Department, nurses, confidential employes, the Welfare Department Office Supervisor and

1/ Sheboygan County, (8256-D) 1/68.

the Welfare Department Case Aides Supervisor. 2/

4. That in the instant proceeding, the Union requests the Commission to determine whether the newly created positions of Office Supervisor and that of Accounting Supervisor should be included in the above described bargaining unit; and that in said regard the County, contrary to the Union, contends that said positions are supervisory.

5. That in October, 1979, by action of the County Board of Supervisors, the bargaining unit position of Deputy Clerk of Courts was abolished and the position of Office Supervisor in the Clerk of Courts office was created; that in November, 1979, the Deputy Clerk of Courts, Bartzen, was promoted to the Office Supervisor position, at which time she received a 25¢ per hour increase; that the next highest paid bargaining unit employe employed in the Clerk of Courts office receives \$1.55 less than the hourly rate received by the Office Supervisor; that the Deputy Clerk of Courts had been responsible for the preparation of case assignments and dockets, as well as performing secretarial and related tasks for the judges and the Clerk of Courts, answering the phone and keeping departmental payroll and personnel records; that she evaluates the performance of employes and performed the duties of the Clerk of Courts in the latter's absence; that as Office Supervisor, Bartzen is consulted by the Clerk of Courts when new employes are hired, however, Bartzen does not possess the authority to effectively recommend their hire; that although the County has no formal evaluation process, Bartzen has administered oral and written instructions and warnings to employes whose work performance has been unsatisfactory, however, first step grievances are filed with the Clerk of Courts; that, in addition to her responsibilities of handling inquiries from the public from her position near the counter in the office, Bartzen also spends in excess of half of her time, at various work locations in the Clerk of Courts office, in reviewing, checking and coordinating the work of the fourteen Court Secretaries, Clerk-Typists II and Clerk-Typist I; that although many of the work assignments in the Clerk of Courts office are routine, Bartzen exercises independent judgment in the assignment of personnel in the event of staff absences or a staff shortage; that at the time of the hearing, Bartzen was enrolled in a supervisory training program established by the County, under the auspices of the Lakeshore Technical Institute, for the purpose of training supervisory personnel employed by the County; and that a significant portion of the duties and responsibilities of the position of Office Supervisor requires the exercise of supervisory authority over various employes of the County.

6. That the Accounting Supervisor position was created by the County Board of Supervisors in May, 1979, seeking to improve the level of bookkeeping services in the accounting unit of the Clerk of Courts office, which unit processes between six and seven thousand separate accounts and manages approximately two million dollars in funds; that there are five Account Clerks in said unit working under the direction of the Accounting Supervisor, Leroy Boldt, who receives \$8.39 per hour, which is \$2.49 per hour more than the next highest paid Account Clerk position; that the incumbent has extensive accounting-office manager experience, and the salary differential received by him relates not only to his work experience and expertise, but also results in part for his supervisory responsibilities; that

2/ This unit was clarified in 1970, wherein the Commission found the following positions to be supervisory and excluded same from the unit. County Agricultural Agent, Supervisor of Tax Description, Director of Civil Defense, County Planner, Building Maintenance Engineer, Register in Probate and Veteran's Service Officer. (8256-E) 4/70. In Sheboygan County (14180) 12/75 the Commission excluded the Probate Registrar from the unit, and included the Key Punch Operator, Clerk Steno I (clerical site Manager) Payroll Clerk, Assistant Payroll Clerk, Acting Probate Registrar (Acting Deputy Register in Probate), Dairy Herd Inspector, and Soil Services (Conservation) Technician.

Boldt directs the work of five employes, whose regular work assignment is fixed in a normal routine, and Boldt assists the Account Clerks when they have a problem; that Boldt provides advice to other units in the Clerk of Courts office and other County offices concerning the maintenance of accounts; that although he has such authority Boldt has not had any occasion to either administer discipline to any employe or become involved in the hiring or promotion of any employe; that Boldt had not, during the first year of his employment, prepared a budget for his unit, but it was anticipated that he would have such responsibility, subject to review by the Clerk of Courts; that the Accounting Supervisor grants initial preliminary approval of vacation requests; that Boldt, like Bartzen, is a participant in the supervisory training courses contracted for by Sheboygan County with Lakeshore Technical Institute; that Boldt possesses sufficient authority of a supervisory nature to cause his position to be deemed supervisory.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

That the supervisory duties and responsibilities of the occupants of the positions of Office Supervisor and of Accounting Supervisor, both employed in the office of the Clerk of Courts of Sheboygan County, are present in sufficient combination and degree to warrant the conclusion that the occupants of said positions are supervisors within the meaning of Section 111.70(1)(o)1 of the Municipal Employment Relations Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following


ORDER CLARIFYING BARGAINING UNIT

That the positions of Office Supervisor and Accounting Supervisor be, and the same hereby are, excluded from the unit consisting of all regular full-time and part-time personnel employed by Sheboygan County in the Courthouse, and in auxiliary departments and buildings, but specifically excluding all elected public officials, supervisors, professional employes of the Welfare Department, all employes of the Unified Board, all deputized employes of the Sheriff's Department, nurses, confidential employes, the Welfare Department Office Supervisor, the Welfare Department Case Aides Supervisor, County Agricultural Agent, Supervisor of Tax Description, Director of Civil Defense, County Planner, Building Maintenance Engineer, Register in Probate, Veteran's Service Officer and Probate Registrar.

Given under our hands and seal at the City of Madison, Wisconsin, this 24th day of June, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

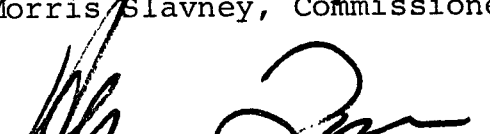
By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner



Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT

Soon after the County created and filled the positions of Office Supervisor and Accounting Supervisor, the Union filed the instant petition to clarify the unit. The Union asserts that the incumbents of said positions do not exercise the authority to effectively recommend the hire, fire or discipline of employes assigned within their respective sections in the Clerk of Courts office. Accordingly, the Union urges that the Commission find that the incumbents are "employes" who should be included in the collective bargaining unit involved.

On the other hand, the County asserts it created said positions to insulate employes from the vagaries of the electoral process. Prior to the creation of these positions, the Clerk of Courts was the only supervisor for all employes in that office. With the addition of these two positions, according to the County, the ratio of employes supervised to a supervisor is much improved. The County concludes that the two positions should be excluded from the collective bargaining unit.

In determining supervisory status the Commission considers the duties and responsibilities of a position at issue in light of several factors. Not all factors need be present in the position for the Commission to find it to be supervisory. There need appear a sufficient combination of factors for the Commission to reach the conclusion that the position or positions involved are supervisory. 3/

OFFICE SUPERVISOR

A detailed description of the duties of the Office Supervisor is set forth in the Findings of Fact. The incumbent, Bartzen, possesses the authority to initiate discipline. She spends a majority of her time in the assignment and review of the work of the fourteen clerical employes employed in the Clerk of Courts office. With the creation of the Office Supervisor position, the supervision of said fourteen employes is vested in the Clerk of Courts and the Office Supervisor. There is no attempt here by the County to spread supervision over several positions merely to obtain their exclusion from the bargaining unit. The County has established the position to permit the Clerk of Courts more time to manage and administer her office. We conclude that the position is that of a supervisor.

ACCOUNTING SUPERVISOR

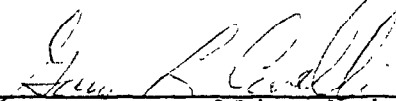
Although, the incumbent, Boldt, is assigned only five employes, their work location and job duties are separate from other employes in the Clerk of Courts office. Furthermore, despite the high percentages of time which the County's witnesses attribute to Boldt's involvement in supervisory activities, it is apparent that most of his time may be accounted in the organization of the thousands of accounts maintained by the Clerk of Courts office, and a large part of his hourly rate is attributable to the level of expertise and experience he brings to this job.


Nonetheless, the County's inclusion of Boldt in a supervisory training program together with the responsibilities of the position, particularly his authority to administer or effectively recommend

actions involving discipline, hiring and promotion satisfies the Commission that the Accounting Supervisor position is a supervisor within the meaning of the Municipal Employment Relations Act. Therefore, it is excluded from the collective bargaining unit.

Dated at Madison, Wisconsin, this 24th day of June, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner