

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 In the Matter of the Petition of
 SUPERIOR CITY HALL LOCAL NO. 235 and
 SUPERIOR PUBLIC WORKS LOCAL NO. 244,
 both affiliated with WISCONSIN COUNCIL
 NO. 40, AFSCME, AFL-CIO
 To Initiate Fact Finding Between
 Said Petitioner and
 CITY OF SUPERIOR

Case V
 No. 11803 FF-148
 Decision No. 8325

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

Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO, having, on November 14, 1967, petitioned the Wisconsin Employment Relations Commission to initiate fact finding pursuant to Section 111.70, Wisconsin Statutes, with respect to a deadlock existing between the City of Superior, a municipal employer, and said Petitioner, with respect to wages, hours and conditions of employment; and the Commission, by Herman Torosian, having conducted an informal investigation with respect to said matter, the Commission 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 Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter jointly referred to as the Petitioner, are labor organizations within the meaning of Section 111.70 of the Wisconsin Statutes and have their offices at Superior, Wisconsin.

2. That the City of Superior, a municipal employer within the meaning of Section 111.70 of the Wisconsin Statutes and hereinafter referred to as the Municipal Employer, has its offices at City Hall, Superior, Wisconsin.

3. That the Petitioner is the exclusive collective bargaining representative for the purposes of conferences and negotiations concerning terms and conditions of employment for all employes of the Municipal Employer employed in the City Hall, Public Works, Equipment Depot, Recreation and Park Departments and Sewage Disposal Plant, except for the following department heads: Finance, Public Works, Health, Parks and Recreation, Law, Assessing, Welfare, City Clerk, Library and Building Inspection.

4. That the Collective Bargaining Committee of the Petitioner met with the Labor Negotiating Committee of the Municipal Employer on August 29, September 6, and October 11, 1967, for the purpose of negotiating changes in various terms and conditions of employment covering the aforementioned employes of the Municipal Employer; that after said negotiating meetings certain issues with respect to the terms and conditions of employment affecting the employes involved remain unresolved and the parties were deadlocked with respect to such issues; that on November 14, 1967, the Petitioner filed with the Wisconsin Employment Relations Commission a petition to initiate fact finding with respect to said deadlock; that subsequently, at the request of the Petitioner and with the consent of the Municipal Employer, a staff member of the Wisconsin Employment Relations Commission, on December 12, 1967, met with representatives of the parties in an effort to mediate the matters which remained in issue; that on said date, because of personal differences between two representatives of the Municipal Employer and a representative of the Petitioner, arising from certain statements made by said representative of the Petitioner prior to a representation election conducted by the Wisconsin Employment Relations Commission involving employes of the Municipal Employer wherein said representative of the Petitioner charged the representatives of the Municipal Employer of acting in collusion with the other labor organization in efforts to persuade the employes to reject the Petitioner as their bargaining representative, and the refusal of the representative of the Petitioner to apologize in writing for said statements, the representatives of the Municipal Employer refused to proceed in mediation and refused to negotiate further with the representative of the Petitioner despite the fact that the representative of the Petitioner agreed to personally withdraw from the negotiations.

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

CONCLUSIONS OF LAW

1. That a deadlock exists between Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO, and the City of Superior, after a reasonable period of negotiations with respect to wages, hours and working conditions affecting employes represented by said Labor Organizations, within the meaning of Section 111.70 (4)(e) of the Wisconsin Statutes.

2. That on December 12, 1967, and thereafter, the City of Superior has refused to bargain in good faith with Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO, with respect to the wages, hours and working conditions affecting employes represented by said Labor Organizations, 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 Commission makes the following

CERTIFICATION AND ORDER

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of fact finding as required in Section 111.70(4)(e) of the Wisconsin Statutes in respect to negotiations between City of Superior and Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO have been met.


IT IS ORDERED that fact finding be initiated for the purpose of recommending a solution to the dispute existing between the City of Superior and Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO.

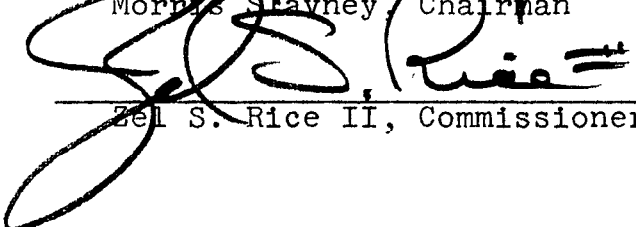
NOW, THEREFORE, the Wisconsin Employment Relations Commission does hereby appoint Robert J. Mueller, Madison, Wisconsin, as the fact finder to proceed forthwith in the matter pursuant to Section 111.70(4)(g) of the Wisconsin Statutes.

Given under our hands and seal at the City of Madison, Wisconsin, this 27th day of December, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slaveny, Chairman


Zel S. Rice II, Commissioner

STATE OF WISCONSIN

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CITY OF SUPERIOR

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS
OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION
AND ORDER APPOINTING FACT FINDER

Superior City Hall Local No. 235 and Superior Public Works Local No. 244, both affiliated with Wisconsin Council No. 40, AFSCME, AFL-CIO, represent certain employees of the City of Superior in two collective bargaining units. Representatives of said Locals met with representatives of the Municipal Employer on August 29, September 6, and October 11, 1967 for the purpose of negotiating a collective bargaining agreement for the year 1968 covering wages, hours and working conditions for the employees involved. No agreement was reached in said meetings and on October 12, 1967 said Local Labor Organizations jointly filed a petition requesting the Commission to initiate fact finding on the basis that the parties were deadlocked after a reasonable period of negotiations. Upon receipt of the fact finding petition a staff member of the Commission contacted the parties and suggested that the parties meet in mediation in an effort to resolve said deadlock. Representatives of both parties agreed to proceed to mediation and a mediation meeting was scheduled for December 12, 1967.

A staff mediator met with representatives of the parties on the latter date. Two representatives of the Municipal Employer, Mayor Denewith and Counsel Paul Siciliano, Chairman of the Labor, Wage and Classification Committee, refused to continue negotiations in mediation until the representative of the Petitioner, Richard Erickson, either confirmed or apologized for, in writing, a letter dated October 28, 1967, over the latter's signature, which letter had been sent to certain City employees urging them to vote in favor of Local No. 244 in a representation election which was to be held on November 9, 1967, and which election also involved a rival labor organization. In that letter Erickson had charged the Mayor and said


Councilman had engaged in collusion with the rival labor organization to seek to defeat Local No. 244.

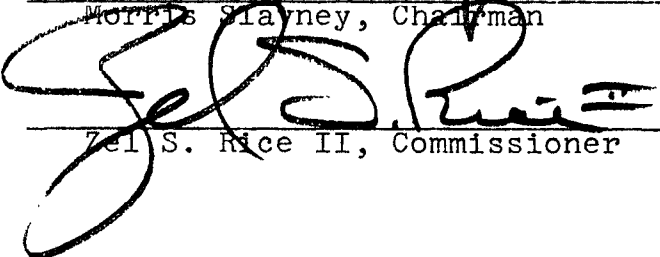
In the presence of the mediator, on December 12, 1967, Erickson agreed to orally apologize for the statements made in the letter but refused to reduce his apology to writing. The offer of the oral apology was not satisfactory to the Mayor or said Councilman. Erickson thereupon offered to remove himself from the negotiations and suggested that another mediation meeting be scheduled at which time a new representative would negotiate for the Petitioner. The Mayor and said Councilman insisted on a written apology before proceeding in further negotiations or mediation. Erickson informed the representatives of the Municipal Employer that he interpreted their position as constituting a refusal to bargain in good faith and that it desired fact finding also proceed on that basis.

Under such circumstances the Commission concludes that the attitude of the representatives of the Municipal Employer constitutes a refusal to bargain in good faith within the meaning of Section 111.70, Wisconsin Statutes. Personal differences arising between the representatives of the parties engaged in negotiations with respect to wages, hours and working conditions of municipal employes do not constitute a valid reason for refusing to bargain in good faith. Both municipal employers and representatives of their employes have the right to designate whomever they choose to represent them at the bargaining table. To allow either or both parties to refuse to bargain with each other because of alleged or actual conflicts between their representatives would be contrary to the intent and purpose of Section 111.70. The refusal of the representatives of the Municipal Employer to proceed with negotiations under the circumstances described above constitute a refusal to bargain in good faith within the meaning of the statute, and, such a refusal in itself constitutes a basis for fact finding, as does the fact that the parties are deadlocked after previous negotiation meetings, with respect to the wages, hours and working conditions of the employes involved. We have, therefore, certified the matter to fact finding.

Dated at Madison, Wisconsin, this 27th day of December, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slaney, Chairman


Zel S. Rice II, Commissioner