

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
	:	
LA CROSSE COUNTY HOSPITAL EMPLOYEES,	:	
AFSCME, AFL-CIO	:	Case VII
	:	No. 11799 ME-350
Involving Employes of	:	Decision No. 8341-C
	:	
LA CROSSE COUNTY (HOSPITAL)	:	
West Salem, Wisconsin	:	
	:	

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ORDER DETERMINING CHALLENGED BALLOTS

The Wisconsin Employment Relations Commission having heretofore directed the conduct of an election among all employes of LaCrosse County Hospital, West Salem, Wisconsin, excluding the superintendent, assistant superintendent, registered nurses and confidential clerical personnel, who were employed by said Municipal Employer on January 3, 1968, for the purpose of determining whether a majority of such employes desired to be represented for the purposes of collective bargaining by LaCrosse County Hospital Employees, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, or by County Hospital Employees Association, hereinafter referred to as the Association, or by neither of said organizations, and thereafter and on February 6, 1968, the Commission having conducted such election during which the right of William Tenner and Agatna Dehn to vote was challenged by AFSCME on the claim that Tenner was a supervisory employe and that Dehn was a temporary employe. Prior to the completion of the challenge to Tenner's ballot, Tenner inadvertently placed his ballot in the ballot box, and it was thus intermingled with ballots of other employes who had voted. Dehn's ballot was impounded and placed in a challenged ballot envelope. The tally of ballots executed by the Commission's agent after the conduct of the ballot was as follows:

- |                                       |     |
|---------------------------------------|-----|
| 1. Eligible to vote .....             | 64  |
| 2. Ballots cast .....                 | 62* |
| 3. Ballots challenged .....           | 1   |
| 4. Ballots counted .....              | 61* |
| 5. Ballots cast for AFSCME .....      | 31  |
| 6. Ballots cast for Association ..... | 0   |
| 7. Ballots cast for neither .....     | 30  |

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\* Includes Tenner's ballot

Since such challenged ballots might affect the results of the election, a hearing, pursuant to notice, on such challenges having been conducted at LaCrosse, Wisconsin, on March 20, 1968, Commissioner Zel S. Rice II being present; and the Commission, having considered the evidence and arguments of Counsel, and being satisfied that William Tenner is not a supervisor, but a working foreman, and therefore eligible to participate in the election; and further being satisfied that Agatha Dehn is a temporary employe and therefore not eligible to participate in the election;

NOW, THEREFORE, it is

ORDERED

That the challenge to the ballot of William Tenner be overruled and that the challenge to the ballot of Agatha Dehn be sustained, and since the ballot of William Tenner has been included in the numerical tally of ballots and it being apparent that the disposition herein of the challenges involved does not affect the results of the election that therefore certification be issued.

Given under our hands and seal at the City of Madison, Wisconsin, this *3rd* day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slawney*  
Morris Slawney, Chairman

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

*William R. Wilberg*  
William R. Wilberg, Commissioner

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MEMORANDUM ACCOMPANYING ORDER  
DETERMINING CHALLENGED BALLOTS

The Municipal Employer operates a farm in connection with its hospital facility. William Tenner, who holds the classification of farm manager, has occupied this position for the past 11 years and is presently receiving a salary of \$525 per month. He is also provided with a residence and free meals. Five individuals, including Tenner, are employed on the farm. A herdsman and gardener work independently of Tenner. Two farm workers work along with Tenner, one receives \$340 per month while the other receives \$316 per month. Tenner is in charge of the farming operation. He has no authority to discipline or discharge employees or to effectively recommend such action. He has the authority to grant single days off but additional time off must be approved by the superintendent. He does not schedule vacations nor is he consulted in connection therewith. While Tenner's position is characterized by certain supervisory functions, he spends the majority of his time performing work similar to that performed by the farm workers and therefore, he is a working foreman and within the unit involved in the election. He was entitled to vote therein and his ballot was properly included in the tally of ballots.

Agatha Denn was regularly employed by the Municipal Employer until June 30, 1966, when she retired upon reaching the age of 65, in accordance with the retirement policy of the Municipal Employer. In November 1967, the Municipal Employer inaugurated a training program for its regular employees in connection with Medicare. Denn was recalled to employment to replace regular employees who were taking the Medicare course. She continued in

employment at least up until the time of the hearing. Upon her re-employment she was advised that her work would be of the temporary nature for the period of employe training in Medicare. Dehn testified that as additional work was given to her she would continue employment only for such period which would not affect her eligibility to receive retirement and social security benefits. Significantly, during the month of December 1967, Dehn was employed on only 11 days because of the discontinuation of the Medicare training program during the Christmas season, and Dehn was returned to more active employment upon a resumption of the training program in January, during which month she worked 19 days. She also worked the same number of days in February. However, she is not entitled to fringe benefits such as life and health insurance coverage nor are contributions made for her to the state retirement fund. Under the circumstances herein, we conclude that Dehn is a temporary employe and therefore not eligible to participate in the election.

We have overruled the challenge to Tenner's ballot and since his ballot has already been included in the tabulation of the ballots because he inadvertently placed his ballot in the ballot box before the challenge was completed and since we have sustained the challenge to Denn's ballot, we shall certify the results of the election based on the original tally executed by the Commission's agent upon the conclusion of the balloting.

Dated at Madison, Wisconsin, this 3rd day of May, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Slawney*  
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Morris Slawney, Chairman

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

*William R. Wilberg*  
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William R. Wilberg, Commissioner