

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
: :

CHIPPEWA FALLS FEDERATION OF TEACHERS, :
LOCAL 1907, AFL-CIO : :

Involving Employees of :
: :

CHIPPEWA FALLS SCHOOL DISTRICT :
JOINT NO. 1 :
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Case XIII
No. 12367 ME-400
Decision No. 8767

Appearances:

Mr. Lawrence W. Durning, Attorney at Law, for the Union.

Mr. James O'Donnell, for the Employer.

Mr. John C. Carlson, Attorney at Law, for the Intervenor.

DIRECTION OF ELECTION

Chippewa Falls Federation of Teachers, Local 1907, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certificated teachers in the employ of Chippewa Falls School District Joint No. 1, and hearing on such petition having been conducted at Chippewa Falls, Wisconsin, on October 23, 1968, Commissioner Zel S. Rice II being present, and during the course of the hearing Chippewa Falls Education Association, affiliated with the Wisconsin Education Association, having been permitted to intervene in the matter; and the Commission having considered the evidence, arguments and briefs of counsel, and being satisfied that a question has arisen concerning representation for said employees of said Municipal Employer;

NOW, THEREFORE, it is

DIRECTED


That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this directive in the bargaining unit consisting of all certificated teachers employed by Chippewa Falls School District Joint No. 1, excluding supervisors and confidential personnel, who were employed by the Municipal Employer on November 21, 1968, except such employees as may prior to the election quit their employment or

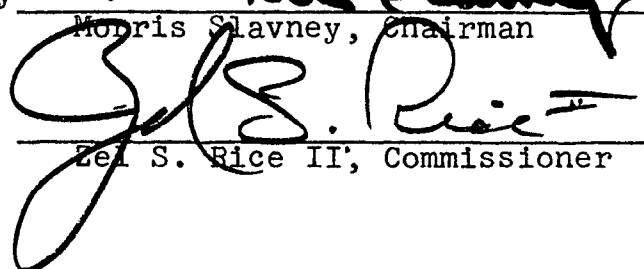
be discharged for cause, for the purpose of determining whether a majority of such employes desire to be represented for the purposes of conferences and negotiations on questions of wages, hours and conditions of employment by Chippewa Falls Federation of Teachers, Local 1907, AFL-CIO, or by Chippewa Falls Education Association, affiliated with the Wisconsin Education Association, or by neither of said organizations.

Given under our hands and seal
at the City of Madison, Wisconsin,
this 21st day of November, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


J. S. Rice II, Commissioner

STATE OF WISCONSIN
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In the Matter of the Petition of
CHIPPEWA FALLS FEDERATION OF TEACHERS,
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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The instant proceeding was initiated on September 19, 1968, by the filing of a petition with the Commission by Chippewa Falls Federation of Teachers, Local 1907, AFL-CIO, hereinafter referred to as the Union, requesting that an election be conducted among all certificated teachers in the employ of Chippewa Falls School District Joint No. 1, hereinafter referred to as the School Board. Chippewa Falls Education Association, hereinafter referred to as the Association, was permitted to intervene in the proceeding on the basis of its claim that it presently is the bargaining representative for the employees involved. The Association opposes the present conduct of an election, primarily contending that the petition was not timely filed.

In May 1964, the School Board voluntarily recognized the Association as the bargaining representative for the certificated teachers in its employ, and in that relationship the Association and School Board negotiated agreements covering salaries and conditions of employment for said employees for various school years since that date. Written agreements were executed for the 1967-68 school year, as well as the 1968-69 school year. The school year extends from July 1 through the next succeeding June 30. None of the agreements, including the one presently in effect, contain provisions setting forth the date or dates on which collective bargaining is to commence with respect to a succeeding agreement. However, it has been a practice that negotiations between the Association and the School Board commenced in July or August of each year and were completed by October 1 in order that the School Board, which is a financially dependent school district, could present its budget to the various municipalities within the school district.

On a date late in July or early in August 1968, Henry Rosenow, as President of the Association, wrote a letter to the School Board requesting a meeting for the commencement of negotiations on an agreement for the 1969-70 school year. Thereafter, during the month of August, such letter was considered at the organizational meeting of the School Board, and on that occasion the School Board established a negotiating committee.

Some time in the month of August, Rosenow, while still a member and officer of the Association, joined the Union, and at about the same time most of the Executive Board members of the Association and all the members of the Association Negotiating Committee also joined the Union. Such individuals also retained their membership in the Association until October 1, 1968.

After Rosenow had learned the identity of the School Board negotiating committee, he arranged a negotiating meeting for September 5, 1968. On that date the representatives of the School Board met with the teacher representatives, and although the request for the commencement of negotiations had been made on behalf of the Association, the representatives of the teachers present during the September 5 meeting advised the School Board that Charles Ackerman, a representative of the Wisconsin Federation of Teachers, the parent body of the Union, who was present, would bargain on their behalf. At said meeting the representatives of the School Board refused to recognize Ackerman as the spokesman for the teacher representatives, and the meeting was terminated without any bargaining.

On September 11 the Union was formally organized among the teachers of the School Board. Officers were elected, including Rosenow as President. On the same date Rosenow and five other members of the Association Executive Board wrote a letter to the Superintendent of Schools wherein Rosenow stated "as President of the Chippewa Falls Education Association, I have been instructed by the Executive Board to recommend that the Board of Education recognize the American Federation of Teachers as the negotiating body for the teachers of Chippewa Falls."

On the following day, at a regular meeting of the School Board, Rosenow's letter was considered and the request contained therein was turned down. During said meeting representatives of the School Board refused to recognize Ackerman as the representative of the teachers. On September 13 the Superintendent of Schools, by letter, advised Rosenow that the School Board was prepared to negotiate with the Association, and in that regard suggested that a meeting be held on

September 17. On the same date Rosenow advised the Superintendent that he had applied for an election to the Wisconsin Employment Relations Commission.^{1/} Prior to our decision in the City of Wauwatosa^{2/}, where petitions were filed with the Commission requesting that a representation election be conducted among municipal employees, where there existed a voluntarily recognized or certified collective bargaining representative, the Commission had no specific policy with respect to the determination as to whether such a petition was timely filed. As expressed in the City of Green Bay,^{3/} the Commission stated that it would examine existing ordinances affecting the period in which to initiate negotiations, the budgetary deadline, the collective bargaining history and any other factors affecting the stability and the relationship between the employees, their bargaining agent and their employer. Subsequently, the Commission, in the City of Wauwatosa decision, established a policy with respect to the timely filing of petitions where there presently existed a collective bargaining agreement covering the employees involved. Said policy required that the petition must be filed within the sixty (60) day period prior to the date reflected in said agreement or resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions for the employees involved. Subsequently, in a decision involving the City of Milwaukee,^{4/} the Commission modified such policy where the period for the commencement of negotiations extends beyond six months prior to the budgetary deadline date of the municipality involved; the Commission would consider only those petitions filed within a sixty (60) day period prior to such six month period as being timely filed.

The collective bargaining agreement presently existing between the Association and the School Board contains no reference to the commencement of negotiations for the school year 1969-70. However, had the Association and the School Board actually commenced negotiations, and had been in negotiations at the time the petition was filed, there may have very well been a determination by the Commission

^{1/} While the petition was executed on September 13, it was not filed with the Commission until September 19.

^{2/} City of Wauwatosa, Dec. No. 8300-A, 2/28/68.

^{3/} City of Green Bay, Decision No. 6558, 1/2/64

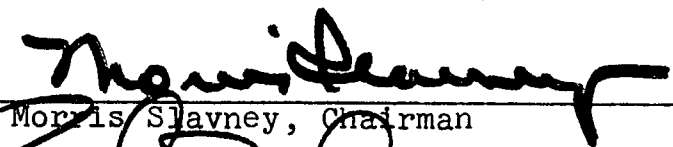
^{4/} City of Milwaukee, Decision No. 8622, 7/23/68.

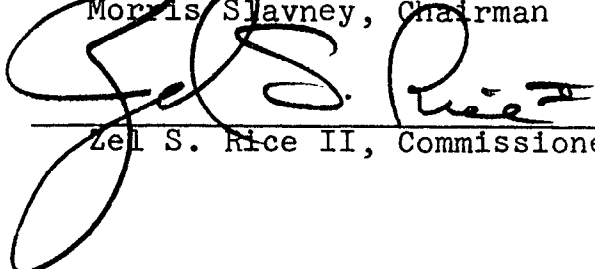
that the petition was not timely filed, especially when negotiations had to be completed on or about October 1. But beyond that, we must consider another factor, and that is the apparent schism among most of the officers, members of the Executive Board and members of the negotiating committee, from allegiance to the Association to allegiance to the Union. The teacher representatives, who first attempted to commence negotiations while affiliated with the Association, prior to the actual commencement of negotiations, changed their affiliation to the Union. Under such circumstances, therefore, we find that the petition was not untimely filed, and we have directed an election. If the teachers select a new bargaining representative, the new bargaining representative will administer the existing 1968-69 agreement in accordance with our decision in the City of Green Bay.

Dated at Madison, Wisconsin this 21st day of November, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner