

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----  
In the Matter of the Petition of  
LOCAL 1365B, WISCONSIN COUNCIL OF  
COUNTY AND MUNICIPAL EMPLOYEES,  
AFSCME, AFL-CIO  
Involving Certain Employees of  
WAUKESHA COUNTY,  
DEPARTMENT OF SOCIAL SERVICES  
-----

Case XI  
No. 12658 ME-438  
Decision No. 9132

Appearances:

Mr. Walter J. Klopp, Staff Representative, and Miss Gretchen Mandermach, Chairman, Social Services Department Bargaining Unit, appearing on behalf of Local 1365B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO.  
Mr. Willis J. Zick, Corporation Counsel; Mr. Joseph R. Himden, Director, Department of Social Services; and Mr. Keith Cash, Personnel Director, appearing on behalf of Waukesha County.

ORDER DETERMINING EMPLOYE STATUS

Local 1365B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission on February 7, 1969, to conduct an election pursuant to Section 111.70, Wisconsin Statutes, among certain employees of Waukesha County, Waukesha, Wisconsin; and a hearing on such petition having been held in Waukesha, Wisconsin, on February 26, 1969, before Robert B. Moberly, Hearing Officer; and at said hearing the parties having agreed that said petition for election should be treated as a petition for clarification of employee status, to determine whether persons employed by the Municipal Employer in the position of Basic Services Supervisor should be considered supervisors and thereby excluded from the certified bargaining unit consisting of all social workers employed by Waukesha County in its Department of Public Welfare, excluding clerical employees, supervisors and all other employees; and the Commission having considered the evidence and being fully advised in the premises;

NOW, THEREFORE, it is


ORDERED

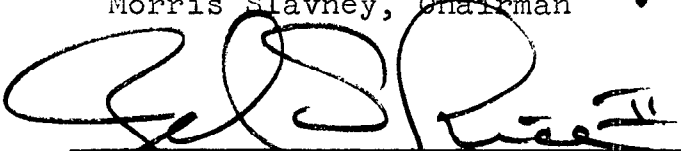
That persons employed in the position of Basic Services Supervisor are supervisors, and are thereby excluded from the bargaining unit.

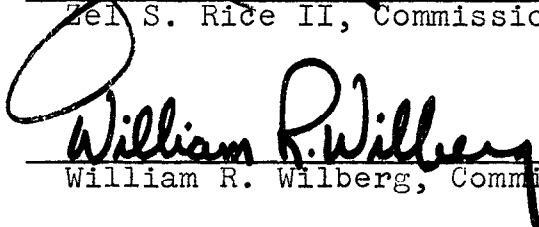
Given under our hands and seal at the City of Madison, Wisconsin, this 8<sup>th</sup> day of July, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Earl S. Rice II, Commissioner

  
William R. Wilberg, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----  
In the Matter of the Petition of  
LOCAL 1365B, WISCONSIN COUNCIL OF  
COUNTY AND MUNICIPAL EMPLOYEES,  
AFSCME, AFL-CIO  
Involving Certain Employees of  
WAUKESHA COUNTY,  
DEPARTMENT OF SOCIAL SERVICES  
-----

Case XI  
No. 12658 ME-438  
Decision No. 9132

MEMORANDUM ACCOMPANYING ORDER DETERMINING EMPLOYEE STATUS

Local 1365B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, petitioned the Commission for an election, describing its claimed appropriate bargaining unit as "all regular full time and regular part time professional employees classified as Social Worker III, Social Worker IV, Basic Services Supervisor, and 'underfills' holding these classifications to be added, if appropriate, to the certified unit under Case VII, No. 11395, ME-304, Dec. No. 7994," but excluding "clerical employees, supervisors as defined in the Act, Social Workers presently represented, and all other employees."

As background information, it should be noted that in Waukesha County (Public Welfare), (7994) 5/67, the Petitioner, following an election, was certified as the collective bargaining representative for employees in the collective bargaining unit described as "all social workers employed by Waukesha County in its Department of Public Welfare," excluding clerical employees, supervisors and all other employees.

During the course of the hearing the parties stipulated that the positions of Social Worker III and Social Worker IV should be included in the certified unit described above, but the parties could reach no such understanding with respect to the position of Basic Services Supervisor. It was agreed that the petition for election should be treated by the Commission as a petition for clarification of employee status, with the major issue being whether persons employed in the position of Basic Services Supervisor are supervisors and thereby excluded from the certified bargaining unit.

This Commission has previously stated that in determining whether an employe is a supervisor, the following factors will be considered:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employes.
2. The authority to direct and assign the work force.
3. The number of employes supervised, and the number of other persons exercising greater, similar or lesser authority over the same employes.
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employes.
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employes.
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employes.
7. The amount of independent judgment and discretion exercised in the supervision of employes.<sup>1/</sup>

The primary functions of the Waukesha Department of Social Services are carried out by the following work units within the department: Juvenile Court Probation (two units); Medical Assistance (two units); Intake and General Assistance; Institutional Placement; Protective Services; Foster Homes; and two units which service the blind and disabled, the elderly, and persons on ADC.

Generally, each of the above units contains five to seven social workers. Eight of the ten units are each headed by a Basic Services Supervisor and the remaining two are headed by persons "underfilling" in the position of Social Work Supervisor I. The Petitioner does not dispute that the position of Social Work Supervisor I is supervisory. Both the Basic Services Supervisors and the Social Work Supervisor I's are directly responsible to two Division Supervisors, also classified as Social Work Supervisor II, who in turn are directly responsible to the Director of the Department.

---

<sup>1/</sup> City of Milwaukee (Professional Engineering Personnel), Dec. No. 6960, 12/64.

The job description of the Basic Services Supervisor, as established by the State Department of Health and Social Services and not by the employing County, is as follows:

"DEFINITION: This is an agency-trained supervising social work position with primarily 'basic service' program responsibilities. Direct responsibility is to the county administrator or to another designated administrative or supervisory staff person. Supervises a unit of agency-trained staff providing 'basic services' and/or may be assigned other functions of an administrative nature. The overall supervisory responsibility is to assure that agency services are provided properly, promptly, efficiently, and with increasing effectiveness to eligible persons as needed, in conformity with law and with agency policy and procedures. The basic services supervisor is delegated duties and responsibilities primarily administrative in nature with limited casework teaching functions commensurate with training, experience, knowledge and diagnostic skill."

During the course of the hearing, James D. Matthews, District Director, Milwaukee District, Division of Family Services, State Department of Health and Social Services, testified that "The State has established this position as a supervisory one. The State has established the job specifications for this position . . . To us, they are supervisors."

The Director of the Waukesha County Department of Social Services testified that the County complied in all respects with the job description set forth by the State. More importantly, testimony as to the actual duties of the position involved here revealed that such duties are in fact fundamentally supervisory duties. The Director of the Department testified that the position of Basic Services Supervisor and Social Work Supervisor I are interchangeable, and the Union concedes that Social Work Supervisor I's are supervisors. It was testified without contradiction that the Basic Services Supervisors are responsible for seeing that employes carry out their work loads. They are also responsible for seeing that the employes carry out the rules and functions of the department and that the services provided are appropriate and proper. The Basic Services Supervisors assist in training of employes handling welfare cases. They maintain administrative accountability over the work of social workers, give them orders in certain cases to perform certain tasks, and confer with the Director and the Division Supervisors on employe activities. Unlike the case worker employes working under them, the

Basic Services Supervisors have very little, if any, direct contact with the aid recipients. With regard to the assignment of work, when a case is referred to a unit headed by a Basic Services Supervisor, it is the duty of the Basic Services Supervisor to assign the case to a particular case worker within the unit. The Basic Services Supervisor also is primarily responsible for the direction of the individual case workers within the unit. The unit workers meet with the Basic Services Supervisor at least once a week as a group and in addition meet separately with the Supervisor at least once a week and frequently more. It was further testified that if a social worker has a question concerning a given case, he goes to the Basic Services Supervisor in charge of the unit for consultation. Similarly, if someone objects to the performance of a case worker, the matter is handled initially by the Basic Services Supervisor.

Moreover, each Basic Services Supervisor undergoes 25 hours of supervisory training in a course provided by the State to enable the Supervisors to carry out their duties properly. Additionally, the Director of the Department testified that he frequently seeks the advice and consultation of the Basic Services Supervisor when an applicant is being considered for hire in the unit headed by said Basic Services Supervisor. The Basic Services Supervisor also assists in the evaluation of case workers in his unit. Periodically, he fills out a performance evaluation of each employe, including recommendations, if needed, for obtaining improved performance. This report is signed by the Basic Services Supervisor and given to the employe for his signature and comments. The report is then forwarded to the Director, who applies his signature and forwards it to the State. While it was testified that the Basic Services Supervisor has authority to recommend discharge, apparently there have been no circumstances which have required the exercise of this authority.

The Petitioner points out that certain social workers employed in the units supervised by Basic Services Supervisors receive salaries equivalent to the salary earned by Basic Services Supervisors. However, we do not believe that this factor seriously detracts from the supervisory status of the Basic Services Supervisor, particularly in view of the testimony of the representative of the State Department of Health and Social Services. After noting the line of questioning which made comparisons between the salary of the Basic Services Supervisor and that of certain social workers, he made the following observations:

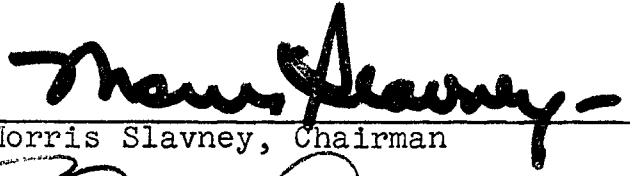
"These have the same salary because it has long been recognized that some Social Workers do not want to become supervisors; but at the same time, on the basis of their developed skills and on the basis of their years of experience, they are worth financially as much as supervisors are, so this is the reason they have the same salary classification, but without the same degree of accountability. The Basic Services Supervisor is administratively accountable to the County Welfare Board."

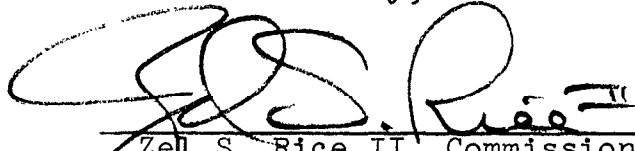
In view of the testimony and evidence discussed above, we are today issuing an appropriate order directing that persons employed in the position of Basic Services Supervisor are supervisors, and are thereby excluded from the bargaining unit.

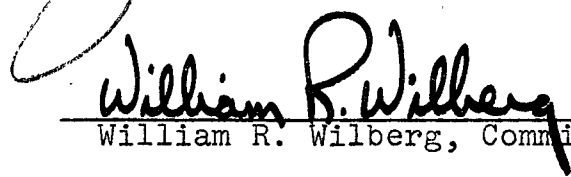
Dated at Madison, Wisconsin, this 8<sup>th</sup> day of July, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
William R. Wilberg, Commissioner