

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

Oneida County requested that the Commission clarify the bargaining unit described previously herein, to determine whether the position of Administrative Assistant II should be included or excluded from the unit. A hearing was held in the matter on June 24, 1977 at Rhinelander, Wisconsin. The parties executed a waiver of transcript. No briefs were filed.

POSITIONS OF THE PARTIES:

At the hearing the Petitioner asserted that the position of Administrative Assistant II in the Oneida County Department of Social Services should be excluded from the bargaining unit on the basis that the position in question enjoys supervisory, confidential and managerial status.

Council #40, WCCME, AFSCME, AFL-CIO, hereinafter the Union, the certified bargaining representative of the unit, argued that the issue for the Commission to decide is whether the Administrative Assistant II is a supervisor in nature and should therefore be excluded from the certified bargaining unit. 1/ The Union informed the Examiner that at a meeting held on May 16, 1977, the Petitioner advised that its request for unit clarification would be based on alleged supervisory status alone.

BACKGROUND:

Mrs. Gayl Farris occupies the position of Administrative Assistant II in the Social Services Department and has done so since 1969. Mrs. Farris is responsible to the Director, Mr. Paul Spencer, who has occupied the position since August, 1974. The current organizational chart, as well as testimony, establishes that there are three sections in the Social Services Department - Social Services, Administration and Income Maintenance, with three "supervisors", Ruth Peterson, Gayl Farris and Leighton Yentzer, respectively. The position of Administrative Assistant II has been included in the bargaining unit since certification.

Some examples of work performed by Farris as noted in the County Merit Classification Plan, Chapter I-D-7 are as follows:

"Serves as the chief clerical employe or officer manager, and in that capacity may supervise a specialized clerical operation of very wide scope;

Plans and is responsible for the flow of work; assigns and checks work; and instructs the staff in proper office procedures;"

The record establishes that Mrs. Farris may effectively recommend the hiring, promotion and discipline of employes in her section. Usually Mrs. Farris will make a recommendation to Mr. Spencer and he will approve. Mr. Spencer has not overridden a recommendation from Mrs. Farris in the areas of hiring, promotion and discipline. On one occasion Mrs. Farris recommended the transfer of an employe from another section to the Administration section and Mr. Spencer concurred.

1/ Oneida County (9134) 7/69, wherein the Commission certified the Union as the exclusive bargaining representative for a collective bargaining unit consisting of all regular full-time and regular part-time employes of the Oneida County Courthouse, excluding all elected, supervisory and confidential personnel.

There are six persons under Mrs. Farris in the Administration Section. Mrs. Farris is the only person to direct and assign them, and it is her estimation that she spends 70 percent of her time "supervising" employes. She authorizes overtime work for the work force and she need not seek Spencer's permission to do so. Mrs. Farris has conferences with individual employes in the Administration section on a weekly basis and meets with all employes in the section twice a month. She maintains a performance record on the employes in her section. In addition, she has the responsibility to make decisions on whether an employe may take sick leave, vacation, compensatory time, etc.

According to Spencer, Mrs. Farris is responsible with respect to all job functions performed in her section. He further stated that she is responsible for activities in her section and to see that activities are carried out. These activities relate to the preparation of financial reports to the State Department of Health and Social Services, Oneida County Social Services Committee and the Oneida County Board of Supervisors, the handling of property transactions relative to probate and release of liens relative to those accounts, purchase of office supplies and minor equipment, and the performance of assignments given her by Spencer.

Though Mrs. Farris is on the same level as Ms. Peterson and Mr. Yentzer on the organization chart, she receives approximately \$200 less per month than her peers. However, Mrs. Farris participates in daily morning meetings between Spencer and Yentzer and Ms. Peterson. All three are accorded equal status by Spencer with the exception that Mrs. Farris is in charge of the Department when Spencer is absent. Spencer stated that he is absent 1.5 to 2 days per week on the average.

DISCUSSION:

Section 111.70(o)(1) of MERA defines the term "supervisor" as follows:

"As to other than municipal and county firefighters, any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

In addition, the Commission considers the following factors.

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. 2/

The record demonstrates that the position of Administrative Assistant II is supervisory in nature within the meaning of MERA. Mrs. Farris is the only employe to direct and assign the work force in the Administrative section and she spends a substantial amount of time in performing said function. In addition, she meets with, and evaluates, the work force on a regular basis, and has the responsibility to make decisions regarding sick leave, vacation, etc. The fact that the Director has never overridden Mrs. Farris' recommendations regarding hiring, promotion and discipline indicates her efficacy in these areas. The record indicates that Mrs. Farris exercises independent judgment in the supervision of employes. Accordingly, the Commission concludes that the statutory criteria are present in sufficient combination to warrant the conclusion that the position which Mrs. Farris occupies is supervisory and should not remain in the bargaining unit. 3/

Dated at Madison, Wisconsin this 5th day of August, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

2/ Fond du Lac County (10579-A) 1/72.

3/ Since the Commission has excluded the position of Administrative Assistant II from the bargaining unit on the basis of supervisory status, the Commission finds it unnecessary to make a determination as to the confidential and/or managerial status of the position.