

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ONEIDA COUNTY

Decision No. 9134

Mr. Arthur Millin, Council Representative, for the Union.

NOW, THEREFORE, it is

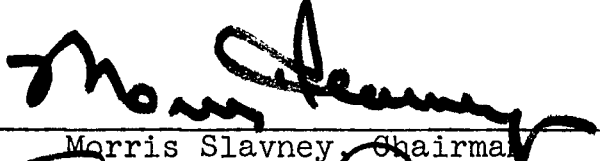
No. 9134

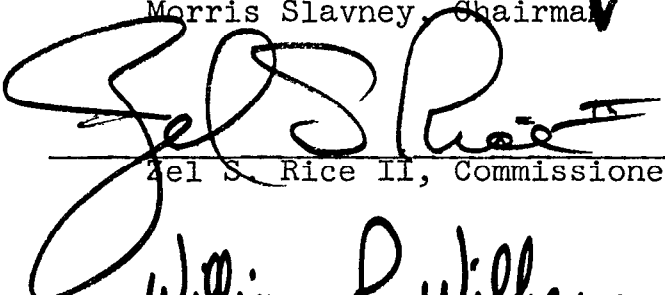
may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employes desire to be represented by Council #40, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of conferences and negotiations with Oneida County on questions of wages, hours and conditions of employment.

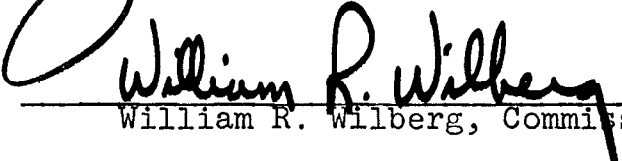
Given under our hands and seal at the City of Madison, Wisconsin, this 8th day of July, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ONEIDA COUNTY

Case II
No. 12929 ME-461
Decision No. 9134

The petition as originally submitted, claimed the appropriate collective bargaining unit as "all regular full-time and regular part-time employees of the Oneida County Courthouse, but excluding all elected and appointed personnel, supervisory personnel, and confidential personnel as defined by the Act." At the hearing the Petitioner amended the exclusions so that the exclusions on the amended petition read ". . . but excluding all elected personnel, supervisory personnel and confidential personnel as defined by the Act."

At the hearing an issue arose concerning the eligibility of the Deputies to the Treasurer, Register of Deeds, County Clerk and Clerk of Court. The Union contends the deputies are "employees" eligible to vote, while the County contends that they are appointed officials and therefore should not be eligible to vote. These deputy positions are clerical in nature except that each deputy is authorized by Statute to perform the duties of the elected official whom he serves in the absence of said official. The County acknowledges that except in cases in which the deputies assume positions of those who they normally serve, they are not supervisory positions.

The Commission, in Ashland County^{1/} has previously determined the status of such deputy positions. It said in that case,

"Although the elected official has power to appoint his deputy, the County Board has the power to veto such selection, if it chooses, by failing to appropriate salary for the appointee. Moreover, the County Board is the locus of the authority to determine the deputy's conditions of employment not prescribed by statute. These conditions may be the subject of conferences and negotiations between the Union and the County in the event the Union is selected as the bargaining representative. The fact that statutes affect the nature

1/ Dec. No. 7214, July 9, 1965.

of a seniority provision which the County and the Union might effectively negotiate has no bearing on the question of whether the deputy may be considered an employe under the statute. Therefore, except so far as tenure is concerned, the deputy is in the same situation as any other County employe. His conditions of employment are set by the County Board."

The Commission stated further in the Ashland case,

"The fact that a deputy fills in for his supervisor during the latter's absence, does not, under the situation existing in this matter, convert the deputy into a supervisor or executive."

The Commission has concluded that no reason exists to exclude the deputies herein from the coverage of Section 111.70 and they are thus eligible to vote in the election. Employees Dalum, Kuehn, Landeck and Stefonek, the employes holding the deputy positions are in the unit and are included on the eligibility list for the election.

In addition, at the hearing the County challenged the eligibility of employe Farris who holds the position of Administrative Assistant in the Welfare Department. The Welfare Department has a department head who is responsible for the department. The professional staff is supervised in its day to day operation by the Basic Services Supervisor. The Administrative Assistant assigns work to the clerks. At the present time there are six clerks. The Administrative Assistant, like the clerks, is paid on a monthly salary but the Administrative Assistant receives higher pay than the clerks. As of July 1, 1968, the date for which salary figures were presented at the hearing, the Administrative Assistant received \$440 monthly while two people occupying the Clerk II designation received \$310 and \$290 respectively. A Stenographer II received \$370. According to the testimony of the Basic Services Supervisor the Administrative Assistant receives the extra compensation primarily for her added responsibilities rather than for her supervision. The Administrative Assistant does the department's auditing and prepares numerous statistical reports required by the department. She assigns the tasks necessary for preparation of said reports to the clerks. The estimate made at the hearing was that no more than one-third of the Administrative Assistant's time and probably less is devoted to "supervision" of the clerical employes.

The Administrative Assistant makes annual evaluations of the clerical employes. She does not have the power to hire, fire, promote or demote although she might make recommendations to the department head which might be effective. In the absence of the department head the department is run by the Basic Services Supervisor. It was his testimony that if both the department head

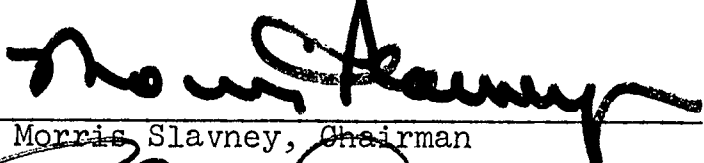
and the Basic Services Supervisor were absent, the department would be run by a member of the professional staff rather than by the Administrative Assistant. The Administrative Assistant does not participate in meetings of the Welfare Board and does not become involved in the management decision-making function.

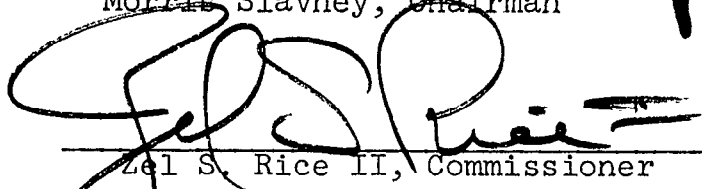
On the basis of the facts presented, the Commission has concluded that the Administrative Assistant position, while carrying with it some supervisory responsibility, does not have supervisory responsibilities to an extent which would warrant it being deemed a supervisory position and thus excluding it from the appropriate bargaining unit. Therefore, employe Farris, the Administrative Assistant, is included in the unit and is eligible to vote in the election.

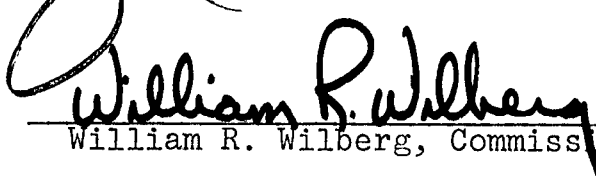
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