

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

EAU CLAIRE COUNTY

EAU CLAIRE COUNTY HIGHWAY DEPARTMENT

No. 6145-B
No. 9198-A

that said position should be excluded from the bargaining unit as a confidential position;

NOW, THEREFORE, it is

ORDERED

That the presently existing certified collective bargaining unit, consisting of all full time employees of Eau Claire County employed in the Eau Claire County Highway Department excluding Highway Commissioner, Assistant Highway Commissioner, Patrol Superintendent, confidential clerical personnel and supervisory personnel, does not include the following positions because of the supervisory nature of the duties involved: Grading Foreman, Oiling Foreman, Truck Foreman, Main Highway Shop Superintendent and Bridge Foremen; and further, that said unit does not include the position of Timekeeper and Bookkeeper because of the confidential nature of the duties performed by the person occupying such position.

IT IS FURTHER ORDERED that the position of the Augusta Shop Foreman be included in the above described bargain unit, since the supervisory duties performed by the individual occupying such position are not sufficient to warrant the exclusion of this position from the bargain unit.

Given under our hands and seal at
Madison, Wisconsin, this 7th day of
October, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman
Zel S. Rice II
Zel S. Rice II, Commissioner
William R. Wilberg
William R. Wilberg, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case II
No. 8828 ME-65
Decision No. 6145-B

Case XV
No. 13082 ME-475
Decision No. 9198-A

During the spring of 1969 an issue rose between the Union and the Municipal Employer as to whether the position of timekeeper and book-keeper should now be excluded from the unit as a confidential employee and whether certain foremen were now performing such duties that would result in their being included in the bargaining unit. As result of such dispute both the Union and the Municipal Employer filed petitions for clarification of the bargaining unit.

The Union requests that the Commission clarify the status of seven "foreman" positions claimed by the Municipal Employer to be supervisory positions and thus excluded from the bargaining unit.

The grading foreman (Guelle) is in charge of grading work approximately eight months of the year and directs ten to twenty employes. During the remaining four months he has charge of brushing crews or plowing crews if there is heavy snow. He receives his instructions from the Highway Commissioner and is in charge of the entire grading operation. He effectively recommends hiring and discharge, assigns work and sets schedules. He receives a salary of \$3.10 per hour and does not receive premium pay. The highest paid person that he supervises receives \$2.97 an hour. During the construction season he performs no unit work. He may help with minor chores but replaces no employe when he performs such work. When weather does not permit performance of grading operations he meets with officials of various townships and makes plans for coordinating activities. We conclude that the grading foreman position is a supervisory one and should be excluded from the bargaining unit.

The oiling foreman (Staats) receives instructions from the Highway Commissioner. He is in charge of ordering supplies and seeing that the oiling is properly performed during the six month oiling season. He has charge of approximately fifteen employes. During the winter, his duties are identical to those of the grading foreman, i.e., in charge of brushing crews and some snow operations. The oiling foreman assigns and schedules employes and exercises independent judgment. He too receives \$3.10 per hour, works no overtime and does no work which replaces unit employes. His authority is the same as that vested in the grading foreman. We conclude that the oiling foreman is a supervisory position and is properly excluded from the collective bargaining unit.

The truck foreman (Hefty) oversees the hauling of men and is responsible for the trucks. His supervisory responsibilities are the same as those outlined above for the grading foreman and the oiling foreman. His pay is also \$3.10 an hour and he receives no overtime pay. He does no regular work in the bargaining unit which replaces unit employes, although he may occasionally perform some work if the need or if an emergency arises. Like the other foremen he has charge of brushing crews in the winter. We conclude that the truck foreman is a supervisory position and is excluded from the bargaining unit.

The shop superintendent at the main highway shop has complete responsibility for that operation. He orders parts, overhauls equipment and maintains the building. He oversees the work of approximately seven men who are permanently assigned to the shop. In emergencies he performs repair work. He is paid a monthly salary of \$600 and has the same levels of supervisory responsibilities as those outlined for the other foremen

discussed above. We conclude that the shop superintendent at the main shop is a supervisory employe and therefore is excluded from the bargaining unit.^{1/}

There are two bridge foremen positions in issue. One bridge foreman (Marcellus) performs his duties in the maintenance of bridges on state highways for approximately eight months of the year. He has the authority to effectively recommend hiring, firing, promotion and demotion, including the direction and assignment of employes under him and he may determine the number of men in his crew. While he has responsibility to the state highway department and to the county patrol superintendent, he exercises independent judgment in performing his duties. He is paid \$3.10 per hour, the same rate of pay received by the aforementioned foremen. During the winter months he may do some bridge inspection and at times helps in emergency snow removal. In this regard he assists in the installation and the maintenance of snow removal equipment and may perform such work at the same time supervising others in the snow crews. He may perform this work for two weeks or so during the winter and spring when the equipment is installed and removed. At times he will perform bargaining unit work in the training and instructing of employes. Although during brief periods of the year this employe's duties might be regarded as that of a working foreman, since the great majority of his time is spent in supervision, we conclude that the bridge foreman (Marcellus) is a supervisor and properly excluded from the unit.

The duties of the second bridge foreman, Luedtke, is primarily the same as that held by Marcellus except that Luedtke does work on County bridges. In addition to bridge work he may do some instruction which would necessitate his doing some unit work. During the winter Luedtke, too, helps to install and remove snow removal equipment while supervising men in the snow crews. While not installing or removing snow removal equipment he supervises a brushing crew or directs snow removal activities. He also has responsibility for one highway shop, sees that trucks are properly serviced and sees that supplies are provided. He does no mechanical work himself with the exception of minor adjustments. He receives \$3.10 an hour, the rate paid to other foremen and has the same level of supervisory responsibility as that of other foremen. The record indicates that the level of responsibility and the amount of work performed by Luedtke is comparable to that done by Marcellus and that the amount of said work is not sufficient to alter his supervisory status. He has supervisory responsibility, is paid as a supervisor and functions as a

^{1/} During the course of the hearing the Union conceded that the positions of grading foreman, oiling foreman, truck foreman and shop superintendent at the main highway shop should be excluded from the unit.

supervisor on a year round basis and therefore we have concluded that the bridge foreman on County bridges is properly excluded from the bargaining unit.

The Augusta Highway Shop Foreman, Smith, has no employee permanently assigned to the shop. He directs the work of truck operators who come to the shop when minor repairs are to be made (all major repair work is sent to the main highway shop). Smith makes these minor repairs since he is a mechanic, unless the needed repairs are minor enough so that he can direct the operator to make same, in which case Smith oversees the work.

At times, usually during the winter months, up to fifteen employees may be working in the shop. Smith is responsible for directing their work. He inspects the work to see that it is properly performed and decides when repair work should be scheduled and where. In addition, Smith has custodial responsibilities for the shop including ordering of supplies, maintaining the shop and keeping it clean and in shape for repair work; he may do some welding and building of chains in addition to his custodial work. Often during the summer months Smith is alone in the shop and thus on said occasions supervises no employees. At all times Smith works in conjunction with the main shop foreman and both take orders from the patrol superintendent. The truck operators are supervised in their daily work by the patrol superintendent and only have contact with Smith during those hours when they are directed to the shop by the patrol superintendent.

Smith is paid on a monthly basis and according to the County is paid both to supervise and to work. His salary is \$540 monthly, compared to the \$600 for the main shop foreman and approximately \$564 for the hourly foremen. Smith's salary approximates a sum equivalent to the highest paid hourly employees in the unit.

We conclude that the position of Augusta Shop Foreman is a working foreman position and that said position should be included in the bargaining unit. The Augusta Shop Foreman is alleged to have full supervisory authority but the record indicates that he is not called upon to exercise it. While no estimate was given of the percentage of time in which Smith performs his supervisory functions it appears that the great majority of his time is spent either in performing unit work or supervising activities rather than supervising employees.

In its petition the County asked the Commission to clarify the status of the timekeeper and bookkeeper, a position that was included in the bargaining unit when it was certified in 1962.

The occupant of the position of timekeeper and bookkeeper performs her duties in the Highway Commission office, also occupied by the Highway Commissioner, the accountant and stenographer. The latter two positions are confidential employees and have been excluded from the bargaining unit by agreement of the parties.

The timekeeper and bookkeeper serves as the assistant to the accountant in making computations and maintaining records, and as his representative in his absence. She handles the time cards and computes the payroll for the department.

The accountant serves as financial adviser to the Highway Committee during labor negotiations, estimating the economic effects of union proposals and management proposals. He routinely calls upon the timekeeper and bookkeeper to make computations of the costs of such proposals. While the timekeeper and bookkeeper does not attend meetings of the Committee, she has access to all of the confidential information in the office connected with negotiations and is aware of proposals which may be contemplated through the work that she is asked to do. She is also privy to confidential information spoken in the office because of her physical location among managerial and confidential employees.

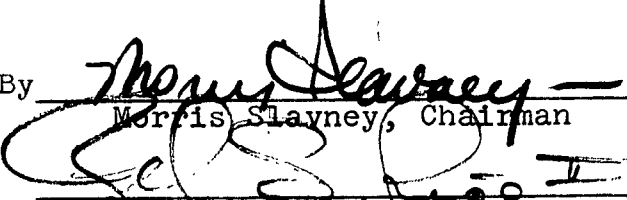
The Municipal Employer contends that the confidential status of the timekeeper and bookkeeper position has changed since 1962 as a result of the development of the collective bargaining relationship since that time, and that bargaining has become more detailed and sophisticated and there is a greater need for keeping bargaining information and proposals confidential prior to reaching agreement with the Union.

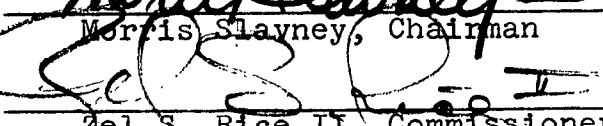
The occupant of that position works with confidential information and in the company of managerial-confidential personnel and thereby is privy to information which if revealed to the bargaining unit might be detrimental to management's bargaining effectiveness, and therefore the position is deemed confidential to the extent that it is excluded from the unit.

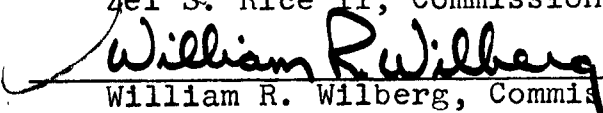
Dated at Madison, Wisconsin, this 7th day of October, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner