

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TAYLOR COUNTY SHERIFF'S DEPARTMENT

Case IV
No. 13002
FF-256
Decision No. 9350

Mr. Gerry M. Miller, Goldberg, Previant & Uelmen, Attorneys at Law,
for the Petitioner
Mr. Robert L. Brandner, District Attorney, for the Municipal
Employer

FINDINGS OF FACT, CONCLUSIONS OF LAW
CERTIFICATION OF RESULTS OF INVESTIGATION AND
ORDER INITIATING FACT FINDING AND APPOINTING FACT FINDER

Chauffeurs, Teamsters, Warehousemen and Helpers Union Local 446, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, having petitioned the Wisconsin Employment Relations Commission to initiate fact finding pursuant to Section 111.70(4) of the Wisconsin Statutes on behalf of certain law enforcement personnel of Taylor County, Wisconsin, employed in the Sheriff's Department; and Edward B. Krinsky, a member of the Commission's staff, having conducted a hearing on such petition at Medford, Wisconsin, on August 11, 1969; and the commission having reviewed the evidence and arguments of counsel and being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law, Certification of Results of Investigation, and Order Initiating Fact Finding and Appointing Fact Finder.

FINDINGS OF FACT

1. That Chauffeurs, Teamsters, Warehousemen & Helpers Union Local No. 446, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter referred to as the Petitioner, is a labor organization and has its offices at Wausau, Wisconsin.

2. That Taylor County, hereinafter referred to as the Municipal Employer, has its offices at the Courthouse at Medford, Wisconsin; and that the Municipal Employer maintains and operates a Sheriff's Department, wherein it employs law enforcement personnel.

3. That on or prior to May 21, 1969, a majority of the Deputy Sheriffs in the employ of the Sheriff's Department of the Municipal Employer affixed their signatures to a petition designating the Petitioner as their collective bargaining representative, and therein requested the Municipal Employer to bargain with the Petitioner on improvements in the wages, hours and working conditions of such personnel; and that in designating the Petitioner as their collective bargaining representative, a majority of the members of Sheriff's Department agreed to pay certain fees for said representation, but did not become members of the Petitioner.

4. That on May 21, 1969, the Petitioner, by letter, notified the Chairman of the Law Enforcement and Traffic Safety Committee of the Municipal Employer that the Petitioner had been designated as the collective bargaining representative by a majority of the Deputy Sheriffs in the employ of the Municipal Employer and that it desired to commence negotiations with the Municipal Employer on changes in wages, hours and working conditions covering the Deputy Sheriffs; that accompanying Petitioner's letter was the petition filed by a majority of the Deputy Sheriffs; that following receipt of said letter and accompanying document the Chairman met with the District Attorney of the Municipal Employer and indicated that he, the Chairman, desired to learn of the problems in the Sheriff's Department; that on said occasion the District Attorney agreed to look into the matter; and in that regard the District Attorney approached a Deputy Sheriff and advised that the Municipal Employer desired to negotiate directly with the Deputy Sheriffs and not with outside intervention; and further that the District Attorney inquired from said Deputy Sheriff whether the Deputy Sheriffs might be willing to meet with the Municipal employer on such basis.

5. That on July 1, 1969, after receiving no response to its letter of May 21, 1969, the Petitioner filed a fact finding petition with the Wisconsin Employment Relations Commission, which petition initiated the instant proceeding, and wherein the Petitioner alleged that the Municipal Employer had failed and refused to meet at reasonable times in a bona fide effort to arrive at a settlement with the Petitioner with respect to wages, hours and working conditions affecting the Deputy Sheriffs.

6. That on July 7, 1969, certain Deputy Sheriffs met in the Sheriff's office during their "slack" hour and formulated their bargaining demands, which were presented to the District Attorney on July 8, 1969; that

thereupon the District Attorney caused such demands to be typed and returned to the Deputy Sheriffs for their signatures; that after such demands had been signed, the District Attorney, on July 9, 1969, presented such demands to the Law Enforcement Committee; that on the same date said Committee offered a counter-proposal to the District Attorney, which was returned to the Deputy Sheriffs, who met at the Sheriff's office on the evening of July 9, 1969, during their "slack" hour, that after discussing same, indicated to the District Attorney that the counter-proposal of the Law Enforcement Committee was acceptable to the Deputy Sheriffs; and that on July 15, 1969, the County Board of the Municipal Employer formally adopted the agreement which had been reached between the Deputy Sheriffs and the Law Enforcement Committee without the knowledge or presence of the Petitioner.

7. That on July 16, 1969, one of the Deputy Sheriffs, in writing, advised the Petitioner that the Law Enforcement Committee had bargained with the Deputy Sheriffs directly and that an agreement had been reached; and that in said letter the Deputy Sheriffs indicated no further need for the Petitioner's services.

8. That at no time since its receipt of the Petitioner's letter of May 21, 1969, did the Municipal Employer in any way correspond with the Petitioner or answer its request with respect to the representation of the Deputy Sheriffs.

9. That the Municipal Employer has not established any fact finding procedures pursuant to Section 111.70(4)(m) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. That the Petitioner, Chauffeurs, Teamsters, Warehousemen & Helpers Union Local No. 446, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is the duly designated representative of all Deputy Sheriffs, excluding supervisory personnel, in the employ of the Sheriff's Department of Taylor County, for the purposes of collective bargaining with the Municipal Employer, Taylor County, within the meaning of Sec. 111.70(4)(j), Wisconsin Statutes.

2. That the Municipal Employer, Taylor County, by failing and refusing to recognize and bargain collectively with the Petitioner, Chauffeurs, Teamsters, Warehousemen & Helpers Union Local No. 446, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the duly designated collective bargaining

representative of all Deputy Sheriffs, excluding supervisory personnel, in its employ, has failed and refused to meet and negotiate in good faith with said Petitioner at reasonable times in a bona fide effort to arrive at a settlement with respect to wages, hours and working conditions, pursuant to Section 111.70(4)(e), Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes the following

CERTIFICATION AND ORDER

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of fact finding, as required in Section 111.70(4)(e) of the Wisconsin Statutes with respect to the failure and refusal of the Municipal Employer, Taylor County, to meet and negotiate with Chauffeurs, Teamsters, Warehousemen & Helpers Union Local No. 446, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, as the collective bargaining representative of all deputy sheriffs employed in the Sheriff's Department of Taylor County at reasonable times in a bona fide effort to arrive at a settlement, have been met.

NOW, THEREFORE, it is

ORDERED


1. That fact finding be initiated for the purpose of recommending a solution to said dispute.


2. That Mr. Abner Brodie, Madison, Wisconsin, is hereby appointed as the fact finder to proceed forthwith in the matter pursuant to Section 111.70(4)(g) of the Wisconsin Statutes.

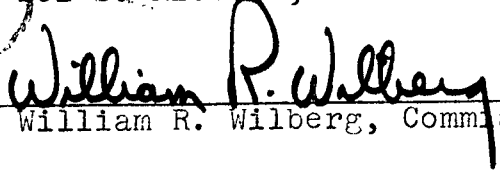
Given under our hands and seal at the City of Madison, Wisconsin, this 26th day of November, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slaveney, Chairman


Mel S. Rice II, Commissioner


William R. Wilberg, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TAYLOR COUNTY SHERIFF'S DEPARTMENT

Case IV
No. 13002
FF-256
Decision No. 9350

No. 9350

On the same date a majority of the Deputy Sheriffs executed the following Petition and Authorization addressed to the Taylor County Board of Supervisors:

"The undersigned, being a majority of the full-time regularly employed Deputy Sheriffs and the Chief of Taylor County Traffic Patrol hereby petition the governing body for changes and improvements in their wages, hours and working conditions.

Further, the undersigned designate Chauffeurs, Teamsters, Warehousemen and Helpers Local Union No. 446 to act as their exclusive representative for the purpose of negotiating the aforesaid changes and improvements and authorize Local 446 to perform on their behalf all acts necessary and proper under Section 111.70 of the Wisconsin Statutes to secure and embody such changes and improvements in a written agreement."

It has been established by our Supreme Court that a labor organization, which admits to membership employees other than police and sheriff personnel may represent such personnel in collective bargaining and fact finding with their Municipal Employer.^{1/}

On May 21, 1969, the Petitioner, in a letter over the signature of its President, addressed to the Chairman of the Taylor County Law Enforcement and Traffic Safety Committee, enclosed the Petition and Authorization signed by a majority of the Deputy Sheriffs, and requested a meeting for the purpose of negotiating changes and improvements in the wages, hours and working conditions of said Deputy Sheriffs.

After being so advised, the Municipal Employer, rather than responding to the request of the Petitioner, engaged in a course of conduct which resulted in negotiating directly with the Deputy Sheriffs and reaching an agreement with them without the knowledge and participation of the designated majority representative.

Such conduct by the agents of the Municipal Employer not only constitutes a refusal to meet and negotiate with the Petitioner as the designated representative of the Deputy Sheriffs but, by bargaining with

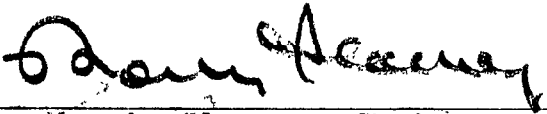
^{1/} City of Medford 42 Wis. 2d 581.

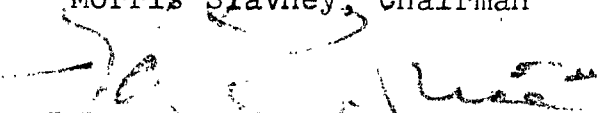
the Deputy Sheriffs individually, indicates an intention to completely avoid its responsibility to meet and negotiate with the designated representative of such employes. The fact that the Municipal Employer and the Deputy Sheriffs reached an accord in no way affects the right of the Petitioner to initiate fact finding, and therefore, we have found that the conditions for fact finding exist and have appointed the fact finder.

Dated at Madison, Wisconsin, this 26th day of November, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner