

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
LESLIE SHELDON, an employe and :
MOSE MARSHALL, Trustee :
Involving Certain Employes of :
VERNON COUNTY (INSTITUTIONS) :

Case VII
No. 13396 ME-480
Decision No. 9470

ORDER OF DISMISSAL

Leslie Sheldon, an employe of the Municipal Employer, and Mose Marshall, a trustee of the Municipal Employer Institutions, having filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted pursuant to Section 111.70, Wisconsin Statutes, among all employes of Vernon County employed in the Vernon County Institutions, excluding superintendents, supervisory personnel and confidential personnel to determine what, if any, representation said employes desire for the purpose of collective bargaining; and a hearing on such petition having been conducted at Viroqua, Wisconsin, on January 20, 1970, Commissioner Zel S. Rice II being present; and the Commission having reviewed the evidence and arguments of Counsel, and being fully advised in the premises and being satisfied that said petition has been untimely filed;

NOW, THEREFORE, it is

ORDERED

That the petition filed in the instant matter be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin, this 23rd
day of January, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slaveney
Morris Slaveney, Chairman
Zel S. Rice II
Zel S. Rice II, Commissioner

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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

On December 5, 1969, the Wisconsin Employment Relations Commission received a communication from Attorney Jerome Klos accompanied by a "Petition for Representation Election," which was signed by three trustees of the Vernon County (Institutions), Viroqua, Wisconsin, and 30 employes, wherein it was alleged that the signators thereof were "informed and believe that Wisconsin Council of County and Municipal Employees Union Local no longer represents the majority of employees in the certified bargaining unit . . ." and requested the Commission to conduct an immediate election to determine bargaining representative. On December 9, 1969, the Commission, by letter to Attorney Klos, advised him to file the petition on the form provided therefor by the Commission. Thereafter and on December 19, 1969, a formal petition was filed in the matter. Hearing was conducted on the petition on January 20, 1970, where the parties were afforded the opportunity to present evidence with regard to the matter.

On August 27, 1964, following an election conducted by the Commission, Local 1667, AFSCME, AFL-CIO, hereinafter referred to as the Union, was certified as the collective bargaining representative for all employes of the Municipal Employer, excluding confidential and supervisory employes and professional employes.^{1/} Following said certification the Union and the representatives of Vernon County, hereinafter referred to as the Municipal Employer, engaged in collective bargaining and entered into a collective bargaining agreement, which was subsequently succeeded by later agreements.

^{1/} Decision No. 6652

Pursuant to the provisions of the collective bargaining agreement existing between the Union and the Municipal Employer, covering wages, hours and working conditions of the employees involved for the year 1969, the Union, on July 19, 1969, in writing, advised the Municipal Employer of its intention to commence negotiations on a collective bargaining agreement for the year 1970. Shortly thereafter the Union and the Municipal Employer engaged in negotiations, and no agreement having been reached on October 30, 1969, the Union, on the latter date, filed a petition with the Commission requesting that fact finding be initiated on the basis that the parties were deadlocked after a reasonable period of negotiations. After conducting an informal investigation on such fact finding petition, the Commission on November 25, 1969, issued an order initiating fact finding and appointing fact finder.^{2/} Following the issuance of said order, but prior to the hearing conducted by the fact finder, the Union and the Municipal Employer reached an agreement with regard to the provisions of the collective bargaining agreement to take effect January 1, 1970, and to continue in effect until December 31, 1970, and, pursuant to a written request of the Union received by the Commission on December 3, 1969, the Commission on December 4, 1969, dismissed the fact finding proceeding and set aside the order appointing fact finder.

The Union reduced the 1970 agreement to writing. However, as of the date of the hearing on the instant petition, the agreement had not as yet been signed by the representatives of the Municipal Employer since the County Board had not as yet formally adopted the agreement. During the course of the hearing on the instant petition a representative of the Municipal Employer indicated that the action of the County Board in adopting the agreement was merely a formality.

It is the policy of the Commission that where there presently exists a collective bargaining agreement covering wages, hours and conditions of employment of employees in the appropriate collective bargaining unit a petition requesting an election among said employees must be filed within the 60 day period prior to the date reflected in said agreement for the commencement of negotiations of said agreement for changes in wages, hours and working conditions covered thereby.^{3/}

^{2/} Decision No. 9348

^{3/} Milwaukee County, Decision No. 8855, 1/69.

In the instant proceeding the petition was not filed until some four months after the reopening date of the 1969 agreement and after the Union and the Municipal Employer had agreed to the terms to be included in the 1970 collective bargaining agreement. All that remains to formalize the agreement is the perfunctory act of adoption by the County Board and the affixing of the signatures of its representatives to the prepared agreement.

The participation of three of the trustees of the Institutions with their employes in the execution of the election petition is suspect in light of the fact that the evidence establishes that after the agreement had been reached by the representatives of the Union and the Municipal Employer involved and immediately after the Union had requested withdrawal of its fact finding petition, the petition herein was filed. Even absent the participation of the trustees in the execution of the petition, the Commission would, and hereby does, dismiss the petition as not being timely filed.

Dated at Madison, Wisconsin, this 23rd day of January, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner