

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

GENERAL DRIVERS & DAIRY EMPLOYEES UNION,
LOCAL NO. 563, affiliated with the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS
OF AMERICA

Case XIX
No. 13248 ME-498
Decision No. 9511

Involving Certain Employes of

CITY OF APPLETON

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., and Mr. Robert Schlieve, Secretary-Treasurer, Teamsters Local 563, for the Petitioner.
Mr. Emery Eatough, Personnel Director, for the Municipal Employer.
Mr. Arthur L. Millin, Representative, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the Intervenor.

ORDER OF DISMISSAL

General Drivers & Dairy Employees Union, Local No. 563, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, having filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election, pursuant to Section 111.70, Wisconsin Statutes, among meter maids in the employ of the City of Appleton to determine what, if any, representation said employes desired for the purposes of conferences and negotiations with the City of Appleton; and a hearing having been conducted at Appleton, Wisconsin, on January 6, 1970, before Howard S. Bellman, Hearing Officer; and during the course of the hearing, Local 73, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having been permitted to intervene in the proceeding on the basis that it is the certified bargaining representative of the employes in the proposed bargaining unit; and as such, at least on the date on which the petition was filed herein, reached an agreement with representatives of the City of Appleton, subject to budgetary approval, and under such circum-

stances, and because the petition herein was not timely filed, the Commission is satisfied that no question of representation presently exists;

NOW, THEREFORE, it is

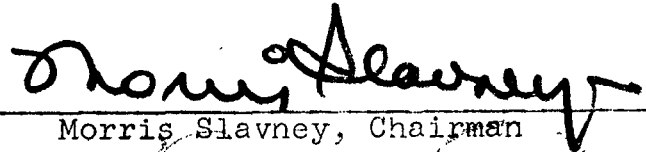
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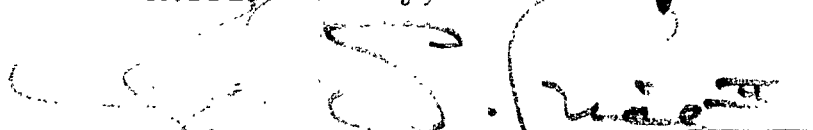
That the petition filed herein be, and the same hereby is, dismissed.


Given under our hands and seal at the City of Madison, Wisconsin, this 17th day of February, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

General Drivers & Dairy Employees Union, Local No. 563, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, on October 30, 1969, filed a petition with the Commission requesting that an election be conducted among all meter maids employed by the City of Appleton, excluding all other Municipal employees and supervisors. After an appropriate showing of interest was filed with this Commission by the Petitioner, a hearing was held on January 6, 1970. During the course of the hearing Local 73, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO was permitted to intervene on its claim that it was presently the certified collective bargaining representative for the employees involved in the petition.

As a result of that relationship the Intervenor and the Municipal Employer entered into a collective bargaining agreement covering the wages, hours and conditions of employment for said employees for the year 1969. The effective term of said agreement was from January 1, 1969, through December 31, 1969. Said agreement did not contain any provision setting forth a date on which bargaining between the parties should commence for the year 1970.

The evidence indicates that in September 1969 representatives of the Intervenor met with representatives of the Municipal Employer in negotiations with respect to wages, hours and working conditions for the year 1970. An agreement was reached by the parties and said agreement was adopted by the City Council on October 1, 1969, subject to adoption of the budget on or before November 20, 1969.

The Intervenor and the City urge the Commission to dismiss the petition alleging that it was not timely filed.


Where a collective bargaining agreement contained no reopening date and where an election petition was filed after negotiations had commenced between the incumbent organization and the Municipal Employer, the Commission processed the petition since there was no evidence to establish that such raising of a question of representation disturbed the progress or stability of a substantial negotiating process.^{1/}

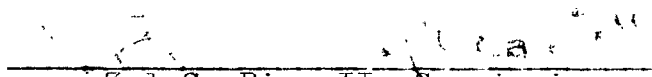
In this proceeding the petition was filed on a date after the representatives of the Intervenor and the Municipal Employer had reached an agreement with regard to wages, hours and working conditions affecting the employees involved for the year 1970. The only further step was the adoption of the municipal budget. The evidence is sufficient to establish that the raising of the question of representation herein would substantially disturb the progress and stability of a substantial negotiating process and therefore the petition is untimely and we have dismissed same.

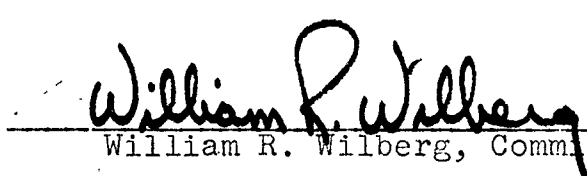
Dated at Madison, Wisconsin, this 17th day of February, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

^{1/} Appleton Board of Education, Dec. No. 8606.