

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case I
No. 13468 ME-515
Decision No. 9516-B

Appearances :

Mr. Darold O. Lowe, District Representative, appearing on behalf
of the Petitioner.

Mr. Harold Wagner, City Manager, appearing on behalf of the
Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 655-C having, on October 11, 1974, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested that the Commission issue a clarification of a certified collective bargaining unit; and, pursuant to notice, a hearing having been held in the matter at Lake Mills, Wisconsin, on November 12, 1974, Sherwood Malamud, Hearing Officer, being present; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and files the following

ORDER

That the position of Waste Water Treatment Plant Superintendent shall be and the same hereby is included in the collective bargaining unit consisting of all regular full-time and regular part-time employees in the employ of the City of Lake Mills, except professional, managerial, supervisory and confidential employees.

Given under our hands and seal at the
City of Madison, Wisconsin this 15th
day of January, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Howard S. Bellman

Howard S. Bellman, Commissioner

No. 9516-B

CITY OF LAKE MILLS, I, Decision No. 9516-B

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 655-C, hereinafter referred to as the Union, is the certified collective bargaining representative of certain employees employed by the City of Lake Mills, hereinafter referred to as the City, in a unit described in Article I of the collective bargaining agreement as:

" . . . all regular full-time and regular part-time employees excluding professional, managerial, supervisory, and confidential employees. . . ."

The Union initiated the instant proceeding by letter, received October 11, 1974, which requested that the Commission determine whether the position of Waste Water Treatment Plant Superintendent should be included in the unit described above.

From the 1970 certification of the bargaining unit through June, 1974, both parties considered the Waste Water Treatment Plant Operator to be included in the unit. During this period several different individuals held that position, spending only a portion of each working day performing duties at the treatment facility. In 1973, the City established the operator position as a full-time position and assigned to it the title of Waste Water Treatment Plant Superintendent. In 1974, the incumbent, Al Miner, was hired to fill the position.

The Union contends that the position in question is within the bargaining unit based upon the unit status of past operators, the similarity of Miner's duties to those of past operators, the absence of employees for Miner to supervise, and the nature and range of the compensation Miner has received.

Given Miner's fiscal and operational responsibility for the Treatment Plant, his supervision of a part-time employee, and changes in the nature of the position from its past status, the City contends that the position is supervisory and/or professional. The City further contends that Miner's inability to hire and fire employees is solely a function of the absence of other employees at the facility and does not reflect any limitation on his authority if employees were to be employed in the future.

Several factors require that the Commission reject the City's contention that the position in question is supervisory. Miner spends that vast majority of his work day performing the physical operations necessary to operate the plant. Only a minimal portion of his time is actually spent directing the activity of one temporary part-time employee employed to perform minor maintenance work at the sewage plant. Although Miner does possess authority to assign work to the part-time employee, his cursory participation in the hiring of said individual and his lack of effective authority to discipline preclude a finding that Miner is a supervisory employee.

In addition, the Commission notes that Miner's salary, approximately, \$3.78 per hour, is within the contractual pay range of employees classified as "waste water treatment plant operator" and thus does not reflect supervisory status. The fact that Miner is compensated at an hourly rate above the entry level scale indicates an Employer judgment as to his skills as a plant operator as opposed to compensation for any supervisory duties.

The Commission must also reject the City's contention that the position is professional. Miner's basic job functions involve the routine repetitive performance of duties required for the plant's operation. Although Miner has received Department of Natural Resources certification to operate the sewerage plant, he exercises only minimal discretion in operating the plant. Although the position requires that the employee possess an ability to conduct certain chemical tests, said ability does not require nor has Miner attained any advanced degree of knowledge which might be acquired through prolonged specialized instruction.

Based upon Miner's lack of supervisory authority and professional status, the Commission has concluded that the position of Waste Water Treatment Plant Superintendent is properly included in the certified bargaining unit.

Dated at Madison, Wisconsin this 15th day of January, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Handwritten text, mostly illegible due to extreme blurriness. The text appears to be organized into several paragraphs or sections, with some lines starting with capital letters. Faintly visible words include "The", "and", "of", "the", "in", "on", "at", "to", "from", "with", "by", "for", "as", "is", "are", "was", "were", "has", "have", "had", "do", "does", "did", "am", "are", "was", "were", "be", "been", "being", "have", "has", "had", "do", "does", "did", "am", "are", "was", "were", "be", "been", "being".