

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
CITY AND COUNTY PUBLIC SERVICE
EMPLOYEES' UNION
Involving Certain Employees of
COUNTY OF MILWAUKEE

Case XXXVI
No. 13486 ME-518
Decision No. 9645

Appearances:

Mr. Robert G. Polasek, Assistant Corporation Counsel, appearing on behalf of the Municipal Employer.
Mr. Robert J. Gunnis, Attorney at Law; Mr. Leo J. Badalik, Business Representative of City and County Public Service Employees' Union; Mr. William McLaine, Hospital Attendant Supervisor; Mr. Robert F. Sterle, President of City and County Public Service Employees' Union; and Miss Fortuna, Hospital Attendant Supervisor, appearing on behalf of City and County Public Service Employees' Union.
Mr. John C. Zinos, Director of District Council 48, AFSCME, AFL-CIO, and Mr. Gene Thate, appearing on behalf of District Council 48, AFSCME, AFL-CIO, Intervenor.

ORDER OF DISMISSAL

City and County Public Service Employees' Union, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among Hospital Attendant Supervisors employed by Milwaukee County; and a hearing on such petition having been conducted at Milwaukee, Wisconsin, on February 24, 1970, before Robert B. Moberly, Examiner; and during the course of the hearing Milwaukee District Council 48, AFSCME, AFL-CIO, having been permitted to intervene as an interested party; and the Commission having considered the evidence and arguments of the parties, and being satisfied that Hospital Attendant Supervisors are not municipal employees within the meaning of Section 111.70(1)(b), Wisconsin Statutes, and that the Commission therefore has no jurisdiction to conduct a representation election herein;

NOW, THEREFORE, it is

ORDERED

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

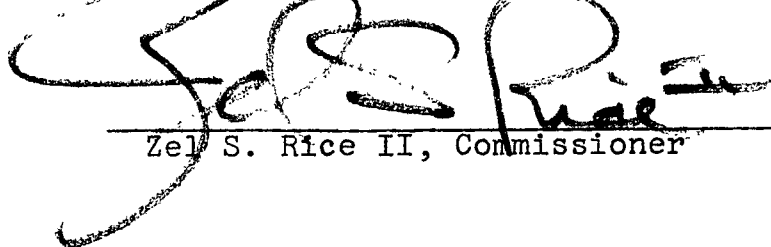
Given under our hands and seal at the City of Madison, Wisconsin, this 15th day of May, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slayney, Chairman



Zel S. Rice II, Commissioner

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MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

In its petition, City and County Public Service Employees' Union requested the Commission to conduct a representation election among "Hospital Attendant Supervisors" in the employ of Milwaukee County Institutions, Milwaukee, Wisconsin. During the fall of 1965 the Commission processed various petitions for elections among employees of Milwaukee County, including employees of the County Institutions. During those proceedings issues arose with respect to the status of various classifications as to whether they were included or should be excluded from the unit or units involved, on the basis as to whether or not they were supervisory. In an Amended Supplemental Direction of Election issued by the Commission on November 10, 1965, the Commission determined that the position of Hospital Attendant Supervisor was, in fact, a supervisory position, and, therefore, individuals occupying said classification were not included in any of the bargaining units involved.^{1/}

In support of its petition, the Petitioner alleged therein that:

"Various requests concerning salaries, duties, reallocations, etc. have been ignored and unanswered, no hearings or action has been taken on said reports.

"Members in this petitioning unit have been permitted to fall behind other classifications doing the same or similar work in so far as salaries are concerned."

Following the receipt of the petition, which was filed on January 19, 1970, the Commission, by letter dated January 20, 1970, advised the representative of the Petitioner that "Hospital Attendant

^{1/} Decision No. 7135-B.

Supervisors had previously been determined as being supervisory positions, and, therefore, not eligible to participate in any representation election of County employees," and further, the Commission, on January 20, 1970, submitted a copy of the decision rendered by it, wherein the Commission concluded that Section 111.70, Wisconsin Statutes, does not provide protection or processes to supervisors.^{2/} In said letter, the Commission also indicated that unless there has been a change in the supervisory duties of the classification involved that the Commission would not conduct an election among the individuals in that classification, however, that, unless the Petitioner voluntarily withdrew its petition, the Commission would set hearing thereon and would dismiss same if no change had resulted in the supervisory duties of the persons involved.

The Petitioner, by letter on January 28, 1970, disagreed with the Commission's conclusion that supervisors were not entitled to the protection of the statute, and to its processes, and as a result, the Commission scheduled hearing in the matter, which was held on February 24, 1970.

Milwaukee District Council 48, AFSCME, AFL-CIO, was permitted to intervene in the proceeding on the basis that it is presently the collective bargaining representative of the non-supervisory employees employed in the Milwaukee County Institutions, and it alleged, should the Commission find that the Hospital Attendant Supervisors are now considered "employees" within the meaning of Section 111.70(1)(b), that the classification should be included in the overall bargaining unit of Milwaukee County employees presently represented by the Intervenor.

The County contends that the classification involved is supervisory, and that the Commission is without jurisdiction to conduct an election among the individuals occupying such classification since they have been held not to be employees within the meaning of the statute.

It is clear from the testimony that the job duties of Hospital Attendant Supervisors are now substantially the same as they were at the time of the earlier proceedings, and they are supervisory positions.

^{2/} Outagamie County Hospital (6076) 8/62.

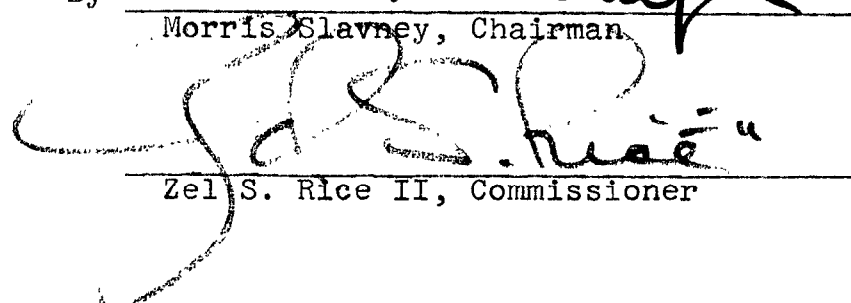
With respect to the Petitioner's argument that supervisors are municipal employes, and are therefore entitled to a representation election, the Commission has previously ruled that supervisors are not considered municipal employes within the meaning of Section 111.70(1)(b), and are therefore not entitled to a representation election.^{3/} Accordingly, the instant petition is dismissed.

Dated at Madison, Wisconsin, this 1st day of May, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

^{3/} Milwaukee County, (8219-D) 3/68.