

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :  
CITY OF WAUWATOSA : Case XII  
involving Certain Employees of : No. 13932 ME-576  
CITY OF WAUWATOSA (Fire Department) : Decision No. 9911  
- - - - -

Appearances:

Mr. Harold D. Gehrke, City Attorney, for the Petitioner.  
Brendel, Flanagan & Sendik, Attorneys at Law, By Mr. John K.  
Brendel, for the Union.

DIRECTION OF ELECTION

City of Wauwatosa having petitioned the Wisconsin Employment Relations Commission to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the Fire Department of the City of Wauwatosa and a hearing on such petition having been conducted on August 27, 1970, by Commissioner Zel S. Rice II; and the Commission, having considered the evidence, and being satisfied that a question has arisen concerning representation for certain employees of the above named Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all the employees of the Fire Department of the City of Wauwatosa, excluding the Chief, Assistant Fire Chief, Captain, Fire Inspector, Assistant Fire Inspector, Training Officer, Assistant Training Officer, Master Mechanic, Alarm Operator, clerical and janitorial employees, who were employed by the Municipal Employer on September 15, 1970, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of


determining whether or not a majority of such employes desire to be represented by Local 1923, International Association of Firefighters, AFL-CIO.

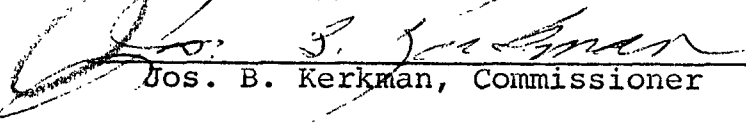
Given under our hands and seal at the City of Madison, Wisconsin, this 15th day of September, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :  
CITY OF WAUWATOSA (FIRE DEPARTMENT) : Case XII  
Involving Certain Employees of : No. 13932 ME-576  
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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Petition initiating this proceeding was filed by the Municipal Employer requesting an election among all Fire Department employees, excluding Chief, Assistant Fire Chief, Captain, Fire Inspector, Assistant Fire Inspector, Training Officer, Assistant Training Officer, Master Mechanic, Alarm Operator, Clerical or Janitorial Aides. In its petition the Municipal Employer alleged that Local 1923, International Association of Firefighters, AFL-CIO, hereinafter referred to as Local 1923, presently claims to represent Fire Department personnel whereas the recognized bargaining representative has been the Wauwatosa Firemen's Protective Association, hereinafter referred to as the Association. At the time of the hearing the Municipal Employer and the Association were parties to a collective bargaining agreement covering the conditions of employment of the firefighter personnel employed in the unit heretofore described. Sometime prior to September 29, 1969, the Association polled its membership to determine whether they desired to dissolve the Association and whether to affiliate with the International Association of Firefighters and apply for a charter with the latter Association. A decision was made to dissolve the Association and to affiliate with the International Association of Firefighters and on December 29, 1969, the latter organization issued a charter and established a separate local of firefighter employees in the employ of the Municipal Employer known as Local 1923, International Association

of Firefighters, AFL-CIO. Local 1923 introduced evidence in the record in the form of written authorization, indicating that a majority of the employees desired to be represented for the purpose of collective bargaining by Local 1923. However, the Municipal Employer desired an election for granting such recognition. Local 1923 contends that it is the successor to the Association and therefore no question of representation exists and no election is necessary. Since the original recognition granted to the Association was voluntary and since the Municipal Employer does not voluntarily recognize Local 1923 as the successor the Municipal Employer is entitled to utilize the statutory procedure to determine the bargaining representative of the firefighters involved.

The original recognition granted to the Association and the present collective bargaining unit described in the collective bargaining agreement does not include captains, among others, in the bargaining unit. Local 1923 contends that captains should be included in the appropriate collective bargaining unit. The captain is the commander at each fire station. He is completely in charge of the station and is in charge of first response firefighting. He has responsibility for the maintenance of the building and the apparatus under his command. It is his obligation to see that the rules and regulations are obeyed by the men on his shift at the fire station. He assigns the employees on his shift to the duties of maintaining the building and apparatus and administers the training programs to those employees under his command. While the regular training programs are scheduled by the training officer, the captain orders non-scheduled training as he sees fit. He is responsible for home and fire hydrant inspection and must see that these programs are carried out. He is required to enforce discipline of the employees he commands and can suspend them, although this suspension is subject to review by his superiors. The captain has complete control of all personnel in his firehouse. There are usually

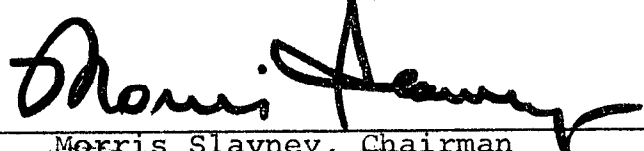
about 9 or 10 people on his shift. The maximum rate of pay is almost 50% higher than that of a firefighter and anywhere from \$13.00 to \$21.00 per week higher than that of a fire lieutenant, the next rank below a captain. He is not required to perform the duties of cleaning and maintaining the building and equipment although he may do this. In the initial fire response he controls the operation of a fire as he is the first officer on the scene. When the chief assistant arrives on the scene, he then returns to his company and he may then operate equipment or supervise the work of the other members of his company. He has authority to exercise his discretion to achieve the goals of the Department, although he must comply with all overall regulations and bulletins.


We are satisfied that the position of captain is a supervisory position and therefore shall be excluded from the appropriate collective bargaining unit.

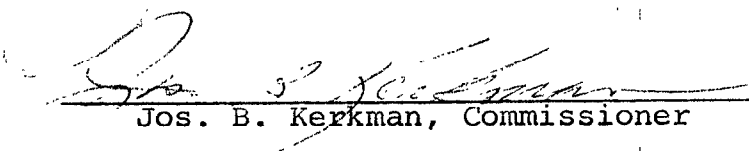
Dated at Madison, Wisconsin, this 15th day of September, 1970.

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