#### STATE OF WISCONSIN

## BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

GENERAL DRIVERS, DAIRY EMPLOYEES AND HELPERS, LOCAL UNION NO. 579

To Initiate Fact Finding Between Said Petitioner and

CITY OF EDGERTON

Case I No. 14085 FF-384 Decision No. 10134

Appearances:

Mr. Stanley W. Slagg, City Attorney, for the Municipal Employer.

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S.

Williamson, Jr. and Mr. Leonard Schoonover, Business Representative, for the Petitioner.

# ORDER DETERMINING BARGAINING UNIT AND DISMISSING PETITION FOR FACT FINDING

General Drivers, Dairy Employees and Helpers, Local Union No. 579, having petitioned the Wisconsin Employment Relations Commission to initiate fact finding, pursuant to Section 111.70 of the Wisconsin Statutes, on behalf of certain employes of the City of Edgerton employed in its Police Department; and the Commission, in its investigation of the allegations contained in said petition, having determined that the only disputes between said parties were with regard to the determination of an appropriate collective bargaining unit and whether or not a majority of the employes in said bargaining unit desired to be represented by said Petitioner for the purposes of Section 111.07(4)(j), Wisconsin Statutes; and said question concerning representation having been resolved, pursuant to a stipulation by the parties, by a procedure conducted by Howard S. Bellman, a Mediator on the Commission's staff, on October 6, 1970, wherein it was determined that a majority of said employes do desire such representation; and a hearing having been conducted at Edgerton, Wisconsin on October 16, 1970, by said staff member, with regard to whether the position of Sergeant should be included in the otherwise agreed-to collective bargaining unit, comprised of all officers of the Edgerton Police Department, except the Chief, and the part time special personnel; and the Commission having considered the evidence and arguments of Counsel, and being fully advised in the premises,

NOW, THEREFORE, it is

### ORDERED

1. That the position of Sergeant is not supervisory and therefore should be included in the collective bargaining unit comprised of all officers of the Edgerton Police Department, except the Chief, and the part time special personnel.

2. 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 day of January, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Morris Slavney, Chairman

Jos. B. Kerkman, Commissioner

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MEMORANDUM ACCOMPANYING
ORDER DETERMINING BARGAINING UNIT
AND DISMISSING PETITION FOR FACT FINDING

The petition for fact finding in the instant matter was filed on September 23, 1970. Therein the Petitioner alleged that "the party other than the Petitioner has failed or refused to meet and negotiate at reasonable times in a bonafide effort to arrive at a settlement", and that a dispute existed between the parties as to whether the Municipal Employer should recognize the Petitioner as the representative of its police officers for the purposes of fact finding under Section 111.70. During the Commission's investigation of said allegations, the parties agreed that the Municipal Employer would so recognize the Petitioner, if the Commission's representative would interview the employes in question with regard to their desire to be so represented. They also agreed that the appropriate collective bargaining unit should include all police officers except the Chief and part time personnel; but the Petitioner, contrary to the Municipal Employer, contended that the Sergeant should be included in said bargaining unit.

On October 6, 1970, the Commission's representative conducted the stipulated interviewing procedure and determined that a majority of the police officers desired to be represented by the Petitioner, and that said majority could not be affected by the desires of the Sergeant. This result was announced to the parties, who then agreed that a hearing should be held with regard to the issue of the Sergeant's inclusion in the bargaining unit and that the Commission should make the required determination upon the evidence adduced at said hearing.

The hearing with regard to the Sergeant's status was held on October 16, 1970 and following its close and the issuance of the transcript, the parties were afforded an opportunity to file briefs. The record discloses that the Edgerton Police Department is comprised of one Chief, one Sergeant, and seven patrolmen. The patrolmen are assigned, two at a time, to three shifts and during most of the hours when they are working, either the Chief or the Sergeant is "in charge". There are gaps between the Sergeant's hours and the Chief's hours when, apparently, no one is in charge. When the Sergeant is on duty he devotes about half of his time to performing the same functions performed by the patrolmen. The remainder of his time is spent in more or less clerical functions having to do with record keeping and filing, and dispatching other officers. However, unlike the patrolmen, he has some authority with regard to assigning patrolmen, imposing minor disciplinary measures

against patrolmen, recommending retention of probationary patrolmen and training newly hired patrolmen.

It is also recognized, however, that the Sergeant is apparently the most senior and experienced member of the force who is relied upon as most expert, and that much of his responsibility involves transmitting decisions made by the Chief, rather than exercising his independent judgment, and that in situations of a more than routine nature he generally must refer to the Chief for determinations. It is also noted that he is paid very little more than are the patrolmen.

Based upon the foregoing, and the record as a whole, it is our conclusion that the functions and responsibilities of the Sergeant fail to meet the Commission's criteria for supervisory status in municipal employment. [City of Milwaukee, Dec. No. 6960, 12/64.]

Dated at Madison, Wisconsin, this  $\omega$  aay of January, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney, Chairman

Jos. B. Kerkman, Commissioner