

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
SERVICE EMPLOYEES' INTERNATIONAL UNION, :
LOCAL NO. 150, AFL-CIO : Case IX
Involving Certain Employees of : No. 14453 ME-626
WEST BEND JOINT SCHOOL DISTRICT NO. 1 : Decision No. 10296
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DIRECTION OF ELECTIONS

Service Employees' International Union, Local No. 150, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission on February 23, 1971, to conduct an election pursuant to Section 111.70, Wisconsin Statutes, among certain employees of West Bend Joint School District No. 1; and a hearing on said petition having been conducted at West Bend, Wisconsin, on March 31, 1971, before Douglas V. Knudson, Hearing Officer; and the Commission having considered the petition, the evidence and arguments of the parties, and being satisfied that questions have arisen concerning the appropriate collective bargaining unit and concerning representation for certain employees of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the voting group consisting of all regular full-time and regular part-time employees in the Department of Buildings and Grounds, West Bend Joint School District No. 1, West Bend, Wisconsin, including Custodial Helpers, Laundry employees, Custodians, Outside Man, Route Men and Drivers, Bus Drivers, Storeroom Clerks, Maintenance Man, Maintenance Helpers, Maintenance Specialist and Technicians, but excluding supervisors, confidential and craft employees, and all other employees, who were employed by the Municipal Employer on June 2, 1971, except such employees as may prior to the elections quit their employment or be discharged for cause, for the purposes of determining (1) whether a majority of such employees eligible in said voting group desire to constitute themselves a collective bargaining unit separate and apart from all other employees of the Municipal Employer; and (2) whether a majority of such employees voting desire to be represented by Service

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

Service Employees' International Union, Local No. 150, AFL-CIO, hereinafter referred to as the Union, filed a petition with the Wisconsin Employment Relations Commission requesting that an election, pursuant to Section 111.70 of the Wisconsin Statutes, be conducted among "all custodial and maintenance employees of West Bend Joint School District No. 1, but excluding supervisors, confidential and craft employees, and all other departments."

At the outset of the hearing, the Municipal Employer contended that the unit desired by the Union is inappropriate since it does not reflect any separate division, department, or craft, a condition necessary for a separate unit under the statute. In support of its position, the Municipal Employer would rely on the decision of the Commission in a previous case involving the parties 1/ wherein an election was directed among "all regular full-time and regular part-time non-professional employees working at least four hours per day, employed by the Municipal Employer, excluding non-professional employees in the hot lunch program, supervisors and confidential employees."

Whenever a petition for election is filed with the Commission, wherein the petitioner requests an election among certain employees not constituting all the employees of the municipal employer and where an issue is raised as to the appropriateness of the desired unit, the Commission's role is limited to determining whether a group of employees set out as being an appropriate bargaining unit does, in fact, constitute a separate division, department or plant of a municipal employer or craft or professional employees. If the employees are employed in a separate division, department or plant they are then given the opportunity to determine for themselves whether they desire to constitute a separate collective bargaining unit. 2/

The Municipal Employer, in addition to maintaining a central office, operates eight elementary schools, two middle schools, and 2 high schools.

1/ Joint School District No. 1 -- City of West Bend, et al (8648) 8/68

2/ Dodge County Hospital, (6067) 7/62

It was the uncontradicted testimony of the Supervisor of Buildings and Grounds that he heads the Department of Buildings and Grounds and that the employees in that Department are classified as Custodial Helpers, Laundry, Part-Time Custodians, Custodians, Outside Man, Maintenance Helpers, Route Man and Drivers, Bus Drivers, Storeroom Clerks, Head Custodian-Elementary Schools, Assistant Head Custodian, Maintenance Man, Head Custodian-Middle Schools, Head Custodian-High Schools, Maintenance Specialist and Technician. At the time of the hearing the positions of Custodian Helpers, Outside Man, and Maintenance Helpers were unoccupied. The Supervisor of Buildings and Grounds has the primary supervision over the employees occupying the above classifications, whereas in the previous case involving the parties the Principals of each school had the immediate supervisory responsibility over the Custodians and the Head and Assistant Head Custodians.

Now all the Custodians in all the schools, as well as the various maintenance employees, craft and non-craft employees, are responsible to the Supervisor of Buildings and Grounds as well as the other filled and non-filled positions in the Department of Buildings and Grounds.

The Commission is satisfied that the Department of Buildings and Grounds is a separate Department. The employees therein are under supervision which is separate and distinct from supervision of the professional para-professional and secretarial employees, as well as employees in the cafeteria. And therefore, the employees in the Department of Buildings and Grounds are entitled to a separate unit vote in accordance with Section 111.05(2), Wisconsin Statutes.

During the course of the hearing the parties stipulated to exclude the Head Custodian at Barton School, where there is also employed one full-time Custodian, a regular part-time Custodian and an Hourly (Casual) Custodian. The Head Custodian of the Decorah School was also agreed upon as being supervisory and at such school there are employed two Hourly (Casual) Custodians as well as one full-time Custodian. They also agreed to exclude the Head Custodian at the Fair Park School where there is only one full-time Custodian employed. With respect to the Greentree School, the parties stipulated to exclude the Head Custodian where there is only employed one full-time Custodian and one Hourly (Casual) Custodian. The parties also excluded the Head Custodian at both middle schools; where as at the Badger Middle School there are five full-time Custodians and one regular part-time Custodian employed, where as at the Silverbrook Middle School there are three full-time Custodians and one Hourly (Casual) Custodian employed. The parties also agreed to exclude the Head Custodian and the Assistant Head Custodian at the high schools - East/West, where there are 10 full-time Custodians, eight Regular Part-Time Custodians and four Hourly (Casual) Custodians. During the course of the hearing an issue arose as to the supervisory status of the Head Custodian of Jackson School James Harth. The Jackson School also employs one Regular Part-Time and one Hourly (Casual) Custodian. Another Head Custodian position in issue was that of Robert Tesch who is the Head Custodian of the McLane School, the Oak Knoll School and the Silver Maple School. At the McLane School there are three full-time Custodians employed and one of said Custodians, Timmerman, is the only Custodian employed at the Oak Knoll and Silver Maple Schools. Apparently Timmerman, although a full-time Custodial employee, performs duties at three of the schools.

It is significant that the parties stipulated that at the Fair Park School, where only one Head Custodian and one Custodian were employed that the Head Custodian should be excluded as a supervisor. Harth supervises a Regular Part-Time Custodian and an Hourly (Casual) Custodian. Tesch

operates at three different schools and having under his "supervision" three Custodians, one who is ambulatory between three schools. There is nothing in the record to persuade the Commission to treat Harth and Tesch any differently than the parties have stipulated with respect to the remaining Head Custodians and therefore Harth and Tesch are deemed supervisory and are excluded from the unit.

The petitioner would include all the custodial employees in the voting group regardless of the number of hours worked by them or the regularity of their employment. The Municipal Employer, on the other hand would include only those Custodians working at least 20 hours or more per week, namely the Regular Part-Time Custodians, and would exclude Custodians working less than 20 hours per week whether regularly or casually.


The Commission has never adopted a policy requiring part-time employees to work a specified number of hours in order to be included among those eligible to participate in an election. If an employee is regularly employed, regardless of the number of hours worked by him, such an employee has a definite interest in the wages, hours and working conditions governing his employment and should be included in the unit, and, therefore be eligible to vote in the election. 3/ However, the Commission has held that employees, who are on call and work only occasionally without regular hours, do not have a sufficient interest in the terms and conditions of employment, and are not eligible to participate in the election. 4/

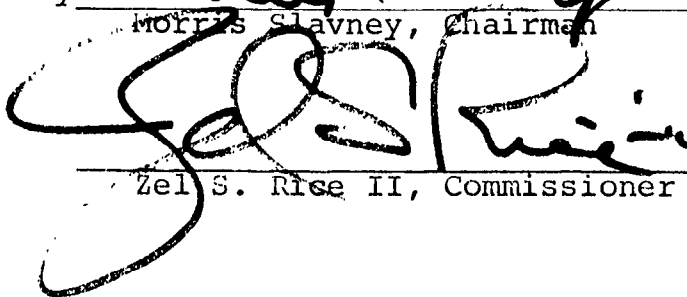
Therefore those part-time employees who are regularly employed, regardless of the number of hours worked by them per week, are to be included in the voting group. Those employees who have no regular schedule of work are to be excluded.

Dated at Madison, Wisconsin, this 2nd day of June, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

3/ Lau Claire County, (7649) 7/66; Prigge's Chartered Buses, Inc., (8061) 6/67.

4/ Riverview Hospital, (6813) 7/64.

