

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case VI
No. 14561 E-2695
Decision No. 10347

Porter, Purtell and Purcell, by Mr. Dennis J. Purtell, Attorney at Law, and Welsh, Trowbridge, Bills, Planert and Gould, by Mr. Lloyd J. Planert, Attorney at Law, appearing on behalf of the Employer.

Local No. 150, Service and Hospital Employees International Union, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to the Wisconsin Employment Peace Act, among certain employees of St. Vincent's Hospital, Green Bay, Wisconsin; and a hearing on said petition having been conducted at Green Bay, Wisconsin, on May 11, 1971, by George R. Fleischli, Hearing Officer; and the Commission having considered the evidence and being satisfied that questions have arisen concerning the appropriate collective bargaining unit and representation for certain employees of the Employer;

DIRECTED

That elections by secret ballot 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 employed in the House-keeping Department of St. Vincent's Hospital, Green Bay, Wisconsin, excluding supervisors, confidential employees, seasonal and casual employees, and members of a religious order, who were employed by the Employer on June 4, 1971, except such employees as may prior to the election quit their employment or be discharged for cause for the purpose 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 Employer; and,

- (2) Whether a majority of such employees voting desire to be represented by Local No. 150, Service and Hospital Employees International Union, AFL-CIO, for the purpose of collective bargaining with the above named Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin, this 4th
day of June, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Blumey, Chairman


Zel S. Rice II, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

LOCAL NO. 150, SERVICE AND HOSPITAL
EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Involving Certain Employees of

ST. VINCENT'S HOSPITAL
Green Bay, Wisconsin

Case VI
No. 14561 E-2695
Decision No. 10347

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Petitioner seeks a representation election among a proposed bargaining unit of employees in the Employer's Housekeeping Department, which "unit" constitutes a group of employees less than all of the employees of the Employer. It is clear that the Housekeeping Department is a separate department within the meaning of Section 111.02(6) of the Wisconsin Statutes, and it is therefore necessary for the Commission to conduct a unit determination vote among said employees pursuant to Section 111.05(2) of the Wisconsin Statutes in order to determine whether a majority of the eligible employees in the proposed unit desire to constitute themselves a separate bargaining unit. In fact, the Commission previously directed a unit determination vote among this same group of employees on September 19, 1969. 1/

The Employer objected to the conduct of a representation election among the employees of the Housekeeping Department on the grounds that the Union has not provided the Commission with any formal showing that it represents a substantial number of employees in that department. The Employer asks that the Commission reconsider its policy of not requiring a formal showing of interest in first or subsequent elections where there is no existing bargaining representative. In particular the Employer argues that the Petitioner here should be required to make such a showing since there has already been an election among this same group of employees in which the same Petitioner failed to win sufficient votes to establish a separate bargaining unit for representation purposes.

The Commission has reconsidered its policy with regard to not requiring a formal showing of interest in a number of recent decisions. One of the most recent of those decisions contains facts which are substantially similar to the facts in this case. 2/ In that case a previous election had been conducted among the same group of employees in the petitioned for unit and an insufficient number of employees voted in favor of establishing a separate bargaining unit. Even so, the number of employees voting in favor of establishing a separate bargaining unit

1/ St. Vincent's Hospital, (9023-A), 8/69. That election did not result in the establishment of a separate bargaining unit of employees in the Housekeeping Department.

2/ Clintonville Community Hospital, (10282), 4/71.

was substantial and the proposition nearly carried. In that case the Commission directed a second election among employees in the petitioned for unit since more than a year had passed and it could not be said that there was little likelihood that the Petitioner would succeed.

The previous vote on the question of establishing a separate bargaining unit of Housekeeping Department employees at the Employer's hospital indicates that a sizeable proportion (over 40%) of the eligible employees favored the establishment of a separate collective bargaining unit for representation purposes. Because a separate bargaining unit was not established in that vote, the question of representation was never reached. However, it should be noted that the same Petitioner sought to establish the unit and to represent the employees in the prior case involving this Employer. On the claim that the Petitioner represents the employees in the petitioned for unit and on the basis of the prior unit determination vote, which indicates that the Union's claim is not frivolous, the Commission is satisfied that it need not deviate from its normal practice of not requiring a formal showing of interest in this case. More than a year has passed since the employees in the petitioned for unit have exercised their statutory right to determine whether or not they desire to establish a separate bargaining unit for representation purposes and if so, whether they desire the Petitioner to represent them.

The Employer requests that the unit determination vote be separated in time by at least one week from the representation vote in order to insure that the employees do not confuse the two questions in their minds. The Union did not join in this request. Although the Commission has followed this procedure under unusual circumstances or where the parties stipulated that the two votes should be separated in time (as was done in the Clintonville case cited above), such procedure causes an added expense to the Commission and results in avoidable delay in the determination of the question of representation. The only argument put forth by the Employer in support of its request is the fact that the employees might confuse the two votes. The Commission is not willing to assume that the employees in the unit in question are incapable of understanding the difference between the question of whether or not they desire to establish a separate bargaining unit and whether or not they desire to be represented by the Petitioner if a separate bargaining unit is established. This is especially true in this case since many of these same employees were presented with the same question in the prior election which occurred in September of 1969. In addition separate notices regarding the two questions will be mailed to the Employer for posting prior to the elections.

The two questions will be presented separately in the same election process and the Commission will count the ballots on the unit determination vote first to see if the required number of employees desire to establish a separate bargaining unit. If the required number of employees vote in favor of establishing a separate bargaining unit then the representation ballots will be counted to see if a majority of those voting desire to have the Petitioner represent them in the unit so established; if the required number do not vote in favor of establishing a separate bargaining unit then the representation ballots will be impounded.

Pursuant to the directive contained in the notice of hearing the Employer provided the Hearing Officer with a list of employees in the

proposed bargaining unit. This list was shown to the Petitioner for the purpose of determining whether or not it had any objections at the time of the hearing. The Employer refused to provide a copy of that list to the Petitioner and the Petitioner has requested the Commission to direct the Employer to do so.

The request that the Employer bring with him to the hearing a list of employees is for the purpose of assisting the Commission in resolving issues, if any, with respect to eligibles and to prevent an excess of challenges during the conduct of the vote. 3/ The Employer's refusal to provide a copy of such list to the Petitioner although obstructive does not abrogate that purpose provided the Union is given an opportunity to see the list and raise objections if any. However, the Petitioner should be given a reasonable time prior to the conduct of the balloting to examine the eligibility list which is established on the basis of the eligibility date set by this Directive in order to raise objections or challenges if any. 4/ Therefore the Employer is requested to comply with the directives of the Commission's Elections Supervisor regarding preparation and submission of the eligibility list prepared on the basis of the eligibility date set in the Directive and to provide a copy of same to the Petitioner at least ten days prior to the date of the elections.

Dated at Madison, Wisconsin, this 4th day of June, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slattery, Chairman


Zel S. Rice II, Commissioner

3/ St. Luke's Hospital, (7007), 1/65.

4/ St. Luke's Hospital, (7007-A), 9/65.