

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case VII  
No. 14742 ME-667  
Decision No. 10545

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., and Mr. Gerald Allain, Business Representative, for the Union.  
Mr. Robert Brandner, City Attorney, for the Employer.

No. 10545

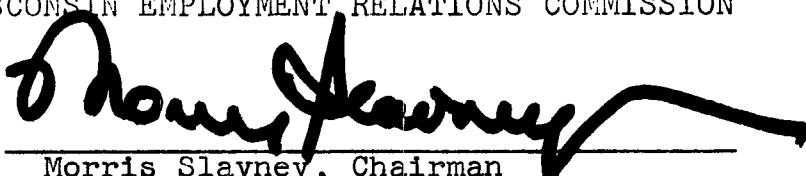


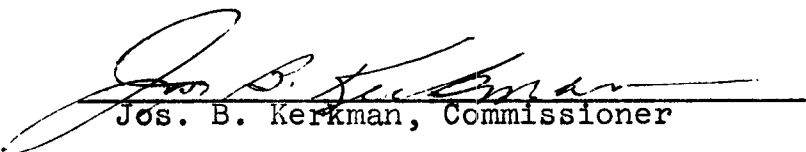
majority of such employes voting desire to be represented by Chauffeurs, Teamsters, Warehousemen and Helpers Local 446, affiliated with the International Brotherhood of Teamsters, Warehousemen and Helpers of America, for the purpose of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 30th  
day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Jos. B. Kerkman, Commissioner



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The statutory criteria do not permit the Commission to rely on bargaining history as grounds for denying an election among employees in a separate division to determine whether they desire to constitute themselves a unit separate and apart from other units of the Employer.<sup>2/</sup>

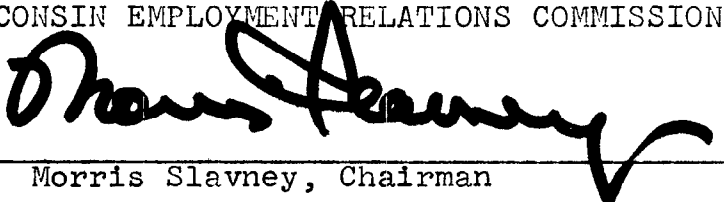
A significant factor in the Commission's determination that a group of employees constitute a separate department or division within the meaning of the Statute is separate supervision. Unlike the City of Appleton case, in the instant matter there is common supervision of the entire Public Works Department including the Sewerage Treatment Plant. In the West Bend Joint School District case issued June 2, 1971, the Commission found that the custodial and maintenance employees were employed in a separate department or division apart from the other employees including clericals. In a previous case involving the same employer issued on August 8, 1968, the Commission had found that the custodial and maintenance employees were not employed in a separate department or division. The basis for the difference in the two West Bend decisions resulted from the fact that subsequent to the initial decision, the primary supervision of the employees involved had been changed from that of being supervised by each principal at each school to separate departmental supervision.

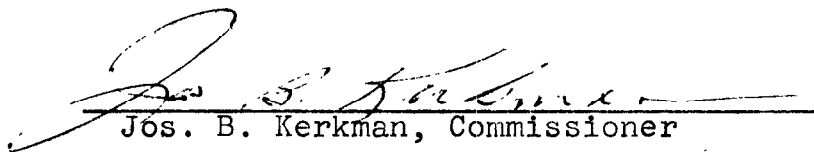
The Commission is satisfied that the Sewerage Treatment Plant Operator is not employed in a single department or division of the Employer. His duties and skills while commanding the highest rate (when converted to an hourly basis) in the department do not constitute a craft classification, nor is the spread between his rate and next highest rate any greater than the spread between some of the other rates within the department. While he has a different location and some different conditions of employment, he is subject to the same supervision and many of the other same conditions of employment as the other employees within the Department of Public Works.

Dated at Madison, Wisconsin, this 30th day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney, Chairman

  
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<sup>2/</sup> Ibid