

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WALWORTH COUNTY

Case XII
No. 14782 ME-670
Decision No. 10547

Mr. Robert W. Lyons, Business Representative, appearing on behalf of the Intervenor.

Walworth County Deputy Sheriffs Association having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employees employed by Walworth County in its Sheriff's Department; and a hearing on said petition having been held at Elkhorn, Wisconsin, on August 30, 1971, by George R. Fleischli, Hearing Officer, and Local 1925-B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO having been permitted to intervene in said proceeding based on its claim that it currently represents the employees sought to be represented by the Petitioner in its petition; and the Commission having considered the evidence and arguments presented by the parties and being satisfied that questions have arisen concerning the appropriate bargaining unit and representation for certain employees of the Municipal Employer employed in its Sheriff's Department;

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 a voting group consisting of all non-civil service employees in the Walworth County Sheriff's Department including jail matrons, cooks, maintenance men (garage and jail), office stenographers, clerks, typists, mechanics, and janitors, but excluding deputy sheriffs covered by civil service and supervisors, who were employed by the Municipal Employer on October 1, 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 Municipal Employer, and

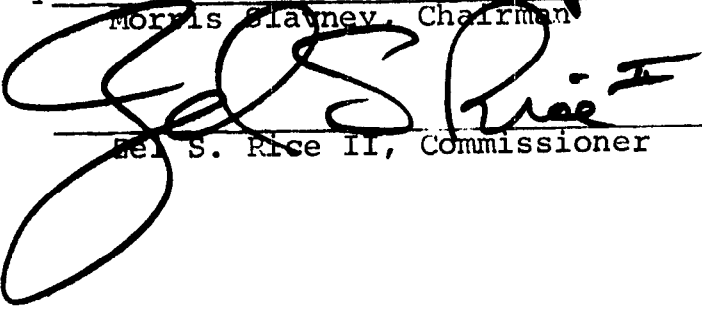
2. Whether a majority of such employees voting desire to be represented by the Walworth County Deputy Sheriffs Association, or Local 1925-B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, or neither of said organizations, for the purpose of collective bargaining with the above 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 1st day of October, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slattery, Chairman


Del S. Rice II, Commissioner

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The Petitioner timely filed this petition for an election seeking to establish a separate bargaining unit of employees employed in the Sheriff's Department other than the deputy sheriffs. The County contends that a bargaining unit of employees in the Sheriff's Department separate and apart from the County Courthouse bargaining unit is inappropriate under Section 111.02(6) of the Wisconsin Statutes. The Intervenor took no position on the issue.

The Municipal Employer already recognizes and bargains with labor organizations representing employees in seven different units including the teachers at its special school, social service employees, employees at the County Hospital and Home, employees at Lakewood Hospital, Highway Department employees, Courthouse employees and the deputy sheriffs. Prior to this time the employees in question have been included in the Courthouse unit and have been represented by the Intervenor.

The County contends that prior to the advent of collective bargaining it consistently maintained a Master Personnel Policy which (1) utilized one job description for all positions within the County as stenographer, account clerk, clerk stenographer, clerk typist, switchboard operator, mechanic, cook, and janitor, (2) provided a uniform schedule of wages and fringe benefits for all employees holding comparable positions in the various departments and institutions of County government, and (3) allowed for County-wide transfer between departments and institutions on the basis of seniority, skill and ability. After collective bargaining was introduced the County attempted to maintain uniformity in its personnel policy among all of its employees holding comparable positions in the various departments and institutions and has had some success in doing so. Promotions and transfers, however, are posted and bid within bargaining units in most instances because of the requirements of the various collective bargaining agreements.

The County maintains that it would be inappropriate to sever the employees in question from the overall Courthouse unit because the employees in question perform similar work and have similar working conditions along with all other employees in similar positions throughout the County. The County argues that the Commission has held that clerical employees cannot be considered a separate department or division and contends that that is what the Petitioner is seeking to do in this case.

The Petitioner contests the Municipal Employer's claim that the duties performed by the various employees involved are the same as the duties performed by other employees holding the same job title in other departments and institutions. In addition the Petitioner claims that certain positions, specifically those of matron, stenographer and switchboard operator, are unique to the Sheriff's Department.

Although the evidence discloses that there is some merit to the Petitioner's claim that the work performed by the employees in question is different, and in some instances unique, that fact is not essential in determining whether or not said employees are entitled to determine for themselves whether or not they desire to establish a separate collective bargaining unit; nor is the question of the Municipal Employer's understandable desire to achieve uniformity in its personnel policy, with regard to employees who are similarly situated in its various departments and institutions, essential to a determination of that question. The question that must be resolved is whether or not the Sheriff's Department constitutes a separate "division, department or plant" within the meaning of Section 111.02(6). If it does, the Commission is obligated to provide those employees the opportunity to decide for themselves whether or not they wish to constitute a separate collective bargaining unit, since the Commission does not have the discretion to establish an appropriate collective bargaining unit based solely on considerations such as "community of interest", "similarity of work and working conditions". 1/

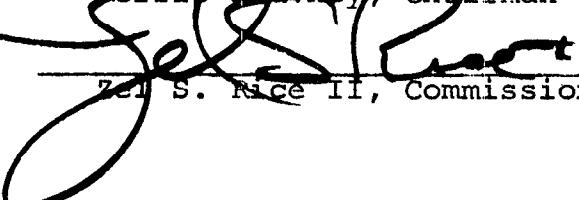
It is clear that the Sheriff's Department constitutes a separate division or department of the County government. It is headed by a constitutional officer, the Sheriff, who is the one and only supervisor exercising authority over the employees in question. It is physically separated from the rest of the County offices and the evidence discloses that the employees in question have never exercised their right to transfer from that department to any other department or institution, either under the Master Personnel Policy or the current collective bargaining agreement covering Courthouse employees. Therefore the Commission has concluded that the employees in question should be provided with an opportunity to exercise their statutory right to determine for themselves whether or not they desire to establish a separate collective bargaining unit. If the required number of employees determine that they desire to constitute a separate unit, the ballots of the representation election will be counted to determine whether they desire to be represented by the Petitioner, by Local 1925-B or by neither of said organizations. If the required number of employees do not vote in favor of establishing a separate collective bargaining unit, their ballots cast in the representation election will be impounded and they will continue to be included in the bargaining unit of Courthouse employees currently represented by Local 1925-B.

Dated at Madison, Wisconsin, this 1st day of October, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


J. S. Rice II, Commissioner

1/ Dodge County Hospital (6067) 7/62. In this regard the Municipal Employer is correct in its claim that a unit of clericals would not be appropriate unless they constituted separate craft, division, department or plant.