

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

MILWAUKEE DISTRICT COUNCIL 48,  
LOCAL 1486, AFSCME, AFL-CIO

Involving Certain Employees of

VILLAGE OF FOX POINT, ET AL,  
JOINT SCHOOL DISTRICT NO. 8  
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Case I  
No. 14546 ME-638  
Decision No. 10553

Appearances:

Mr. Earl Gregory, Staff Representative, appearing on behalf of  
the Petitioner.

Mr. Terry Bradley, District Business Administrator, appearing on  
behalf of the Municipal Employer.

DIRECTION OF ELECTIONS

Milwaukee District Council 48, Local 1486, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission requesting that an election, pursuant to Section 111.70, Wisconsin Statutes, be conducted among all regular full-time and regular part-time maintenance, custodial and cafeteria employees in the employ of Village of Fox Point, et al, Joint School District No. 8; and a hearing on said petition having been conducted at Milwaukee, Wisconsin, on April 29, 1971, before Robert B. Moberly, Hearing Officer; and the Commission, having considered the petition, evidence and arguments, being satisfied that questions have arisen concerning appropriate collective bargaining units and concerning representation of said employees of said Municipal Employer;

NOW, THEREFORE, it is

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 separate voting groups noted below, to determine (1) whether a majority of the employees eligible in each voting group desire to constitute themselves as separate collective bargaining units; and (2) whether the majority of such employees voting in each of said voting groups desire to be represented by Milwaukee District Council 48, Local 1486, AFSCME, AFL-CIO for the purposes of collective bargaining with Village of Fox Point, et al, Joint School District No. 8, on questions of wages, hours and conditions of employment:

VOTING GROUP NO. 1

All regular full-time and all regular part-time employees of the custodial and maintenance department of Village of Fox Point, et al, Joint School District No. 8 excluding confidential and supervisory employees, who were employed by said Municipal Employer on October 6,

No. 10553

1971, except such employes as may prior to the elections quit their employment or be discharged for cause.

VOTING GROUP NO. 2

All regular full-time and regular part-time personnel employed in the cafeteria of Village of Fox Point, et al, Joint School District No. 8, excluding confidential and supervisory employes, who were employed by said Municipal Employer on October 6, 1971, except such employes as may prior to the elections quit their employment or be discharged for cause.

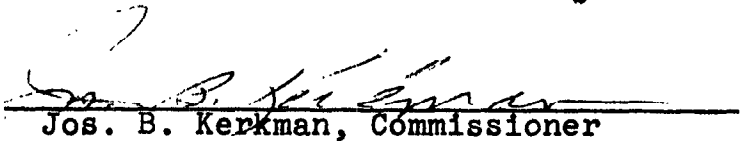
IT IS FURTHER DIRECTED that if the required number of employes in either of said voting groups vote in favor of establishing separate units then the ballots cast in both voting groups with respect to the selection of the bargaining representative shall be counted separately; and further, that if the required number of employes in both voting groups do not vote in favor of establishing any separate unit, then the appropriate collective bargaining unit shall consist of all regular full-time and regular part-time custodial and maintenance employes, and cafeteria employes in the employ of Village of Fox Point, et al, Joint School District No. 8, excluding confidential and supervisory employes, and that the ballots cast by the employes in both of said voting groups shall be co-mingled for determining their choice of representation.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 6th  
day of October, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Jos. B. Kerkman, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

In its petition the Union requested a unit consisting of all regular full-time and regular part-time custodial and maintenance and cafeteria employees in the employ of the School District. During the course of the hearing the School District contended that the custodial and maintenance employees were employed in a department separate and apart from the cafeteria employees and, School District contended that the employees in said two claimed separate departments should be given an opportunity to determine whether they desired to constitute two separate bargaining units.

Pursuant to Section 111.70(4)(d) appropriate collective bargaining units in municipal employment are established pursuant to Section 111.02(6) of the Wisconsin Employment Peace Act which provides, in effect, that all employees of a particular employer constitutes the appropriate bargaining unit, except that employees in separate departments or divisions have the right to determine for themselves whether they desire to constitute bargaining units separate and apart from employees employed in other departments or divisions. We are satisfied from the record established herein that the custodial and maintenance employees are employed in a department separate and apart from the cafeteria employees. Employees in both departments are under separate direct supervision and their work locations are separate. The custodial and maintenance employees do not do any clean up work in the cafeteria. The fact that certain conditions of employment and benefits are identical to each group of employees is not determinative of their departmental status, nor is the fact that there are some differences in the conditions of employment determinative of separate departmental status. Physical location of their duties and their separate immediate supervision, with no interchange of employees in either department, is sufficient to satisfy the Commission that two separate departments exist.

We have directed separate unit votes in both voting groups. Since there are only two voting groups involved and since the Union desires to represent the employees in both voting groups, if the employees in either of said voting groups vote to establish a separate unit then the other voting group, although the employees therein may have rejected same, automatically results in becoming a separate bargaining unit since the employees in the other voting group established themselves as a separate unit. If the employees in both voting groups reject separate units, then the unit will consist of all regular full-time and regular part-time custodial and maintenance employees and cafeteria employees and the representation ballots will be co-mingled to determine the employees choice as

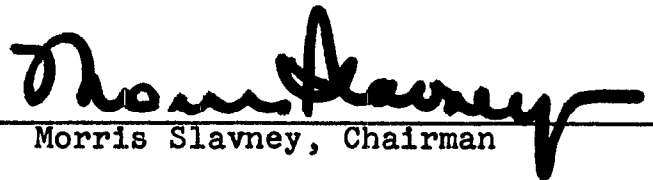
to their collective bargaining representative. Different colored ballots will be provided in both voting groups for the determination of the unit as well as the selection of the bargaining representative. The ballots with respect to the establishment of the bargaining units will be initially tallied.

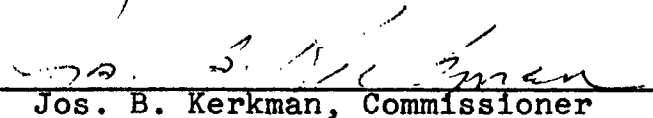
One of the employees in the School District, Mrs. Helen Borchardt, is employed on a part-time basis both in the custodial and maintenance department and in the cafeteria. She is employed daily for two hours in the cafeteria and for two hours performing custodial work. Since Mrs. Borchardt or any other employee similarly employed, is employed on a regular part-time basis in both departments, she is eligible to cast a ballot on unit determination in both departments. Since there is a possibility that the ballots on the question of representation will be co-mingled, if the employees in both departments reject separate bargaining units, Mrs. Borchardt, or any other employee similarly situated, should not be permitted to cast two representation ballots. Therefore, Mrs. Borchardt, or any other employee similarly situated, if she should appear at the polls to vote, will be given representation ballots in both voting groups since there is a possibility that two separate units may be established. However, both of Mrs. Borchardt's representation ballots will be challenged by the Commission's agent conducting the balloting for the possible exclusion of one of the ballots should no separate units be established. However, in taking such challenges Mrs. Borchardt, or any other employee similarly situated, should indicate on the challenged ballot envelopes as to which ballot should be counted if no separate units are established.

Dated at Madison, Wisconsin, this 6th day of October, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Jos. B. Kerkman, Commissioner