

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XXXI
No. 15083 SE-33
Decision No. 10648-B

5. Catering Captain (Union South)

IT IS FURTHER ORDERED that the following classifications shall be, and hereby are, excluded from the collective bargaining unit noted above:

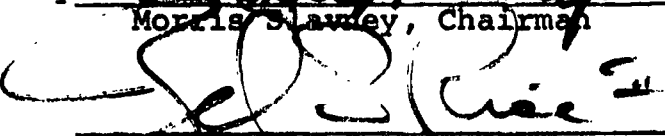
1. Rathskeller Supervisor (Memorial Union) including position occupied by Beverly Kalscheur
2. Red Oak/Snack Bar Supervisors (Union South)
3. Building Supervisor (Memorial Union) and Building Supervisor (Union South) including Building Supervisor/Information Desk Supervisor (Union South) and Building Supervisor/Page Supervisor (Memorial Union)
4. Catering Supervisor (Union South) previously designated as Cafeteria-Catering Supervisor

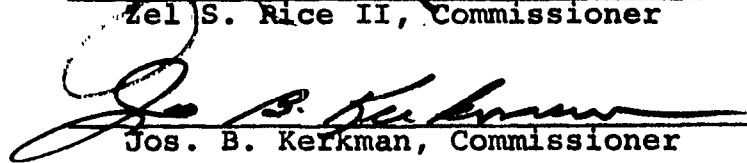
Given under our hands and seal at the City of Madison, Wisconsin, this 10th day of November, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawley, Chairman


Mel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

UNIVERSITY OF WISCONSIN-MADISON
XXXI Decision No. 10648-B

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The parties stipulated to the inclusion of the following positions in the bargaining unit:

1. Play Circle Head Projectionist
2. Duplicating Room Supervisor
3. Maintenance/Set up Supervisor
4. Tripp Commons Supervisor
5. Games Area Supervisor (Union South)

The classifications which remain at issue are:

1. Building Supervisor (Union South)
2. Information Desk Supervisor/Building Supervisor (Union South)
3. Building Supervisor (Memorial Union)
4. Play Circle Head Usher
5. Theater Night Manager
6. Book Center Supervisor
7. Rathskeller Supervisor
8. Red Oak/Snack Bar Supervisor
9. Building Supervisor/Page Supervisor (Memorial Union)
10. Catering Supervisor (Union South) previously designated as Cafeteria-Catering Supervisor
11. Catering Captain (Memorial Union)
12. Catering Captain (Union South)

The determination to be made herein will establish the inclusion or exclusion of 22 employes in the bargaining unit. The positions herein are employed at two of the State Employer's facilities. The Memorial Union houses a variety of food service units, entertainment facilities and offices. The Union South, basically provides the same services but on a more limited scale. The two facilities are located in different areas on the University of Wisconsin-Madison campus.

POSITIONS OF THE PARTIES

The State Employer, contrary to Memorial Union Labor Organization (herein referred to as MULO) alleges that the positions in question

should properly be classified as:

Supervisory:

1. Play Circle Head Usher
2. Catering Captain (Memorial Union)
3. Catering Captain (Union South)
4. Catering Supervisor (Union South)
5. Red Oak/Snack Bar Supervisor

Managerial:

1. Theater Night Supervisor

Managerial and Supervisory:

1. Rathskeller Supervisor
2. Building Supervisor (Memorial Union and Union South) including the positions of Building Supervisor/Information Desk Supervisor and the Page Supervisor/Building Supervisor
3. Book Center Supervisor

In the application of the statutory definition 1/ and case law criteria for supervisory status 2/ the Commission has found that all the indicia of such status need not be present in order to establish that an employee is a supervisor. On a case-by-case basis, the Commission has ruled that a sufficient combination of such factors will be examined in a determination of supervisory status.

Managerial employees, like supervisors, have been excluded from the statute's coverage on the grounds that their relationship to management gives them interests significantly different from those of their fellow employees. The uniqueness of managerial employees stems from their participation in the formulation, determination and implementation of management policy. Managerial employees are agents of the Employer with respect to employee-employer relations. 3/ Furthermore, managerial status may be related to an employee's authority to effectively commit the Employer's resources. Such employees do not necessarily possess confidential information or supervisory authority over subordinate employees.

Play Circle Head Usher

The Play Circle is located in the Memorial Union. It is a theater in which movies are shown during the evenings, on weekends and occasionally during the afternoon. The Play Circle Head Usher

1/ Section 111.81(19).

2/ City of Milwaukee (Engineers), (6960) 12/64.

3/ City of Milwaukee, (8100) 7/67.

works 20 to 30 hours per week at the rate of \$2.05 per hour. There are six people in the work unit, two of whom are working at a given time. The unit's work consists primarily of ticket taking and maintenance of order in the Play Circle. The Play Circle Head Usher's immediate supervisor is the Theater Manager.

The Play Circle Head Usher schedules and assigns employees. The Head Usher has orally reprimanded employees and on occasion sent home an employee who was unfit to work. It appears that such scheduling and disciplining are largely routine. Scheduling is predominantly based upon a student employee's availability. Disciplinary authority is limited. Discharge of an employee would be taken up with higher administrative levels. Generally, the Head Usher spends the majority of working time performing unit work. In addition, the Head Usher, although not scheduled to work, occasionally telephones or stops by the Play Circle to check on the operation. The Play Circle is open throughout the week including times when neither the Head Usher nor the Theater Manager are in attendance. The position's responsibilities include training new employees. The Head Usher assigns unit work to herself at her own discretion.

The Commission is not satisfied that the duties of the Play Circle Head Usher and her relationship to other employees clearly establish supervisory status. Having especially considered the proportion of time spent in unit work and the relatively routine nature of scheduling and assigning employees, we deem the Play Circle Head Usher not to be a supervisor within the meaning of Section 111.81(19).

Theater Night Manager

The Memorial Union Theater is used for stage productions in contrast to the Play Circle which is used for film screenings. Depending upon the nature and size of the production, one employee will work in the box office, one to twenty persons will be employed back stage, four doormen will be present, up to fifty volunteer ushers and either the Theater Night Manager or the Theater Manager will be in attendance. The Theater Night Manager does not hire employees. He may orally reprimand persons employed in the unit. However, direction is given to the doormen through their immediate supervisor, the Head Doorman. Basically the Theater Night Manager is responsible for coordinating the activities of various personnel involved in the production. He would seldom, if at all, be concerned with the direction of stage hands or doormen in their specific tasks. It is his responsibility to make sure that the total operation is running smoothly and on schedule.

For a given performance, the Theater Night Manager's duties are as follows:

Check set up of the box office, including a review of advance sale and available tickets; check the cash box; advise the ticket clerk of appropriate procedure for handling of reservations; advise the doormen of the proper ticket for the evening and any special rules (e.g., restriction on the use of tape recorders) in effect for a particular night.

Write passes for lost tickets; check cloak room at the end of the performance; turn in items to the lost and found; turn off lights and lock up theater.

The Commission finds credence in the Union's contention that the Theater Night Manager should be included in the bargaining unit. We are not convinced that said position is managerial. In light of the above described duties, we conclude that said position neither formulates nor implements managerial policy. Furthermore, the Theater Night Manager does not have the authority to commit any of the Employer's resources. The Theater Night Manager does not appear to function as an agent of the Employer in the employee-employer relationship in a determinative manner.

Book Center Supervisor

The Book Center operates in two locations; one is housed in the Union South, the other in the Memorial Union. The latter facility is open more hours per week than the former. Nine persons are employed at the two stores. Often only one person is working at each location at a given time. The work consists of cashiering and arranging shelves. The Book Center Supervisor earns \$250.00 per month. The position is immediately supervised by the Assistant to the Memorial Union Building Use Supervisor. The Book Center Supervisor works approximately 25 hours per week. The majority of such time is spent clerking in the Memorial Union store.

The duties of the Book Center Supervisor include the following:

Hire employees at the beginning of the fall semester and assign them to the master schedule.

Secure substitutes for employees who cannot obtain a replacement; adjust hours of employees.

Orally reprimand and informally evaluate employees; offer opinion on merit and longevity increases; recommend termination of employee caught stealing, etc.

Exercise responsibility for book ordering, sales promotion.

Attend monthly meeting of all supervisors.

The Commission concludes that the Book Center Supervisor is not a supervisory and managerial employee. It appears that Book Store employees are hired largely according to their availability to work the hours needed to complete the stores' schedule. Employee discipline basically is routine. We are most influenced by the fact that the Book Center Supervisor spends a considerable portion of working time performing unit work. Furthermore, the position's responsibilities for ordering books and stock appears to be largely routine in that the task is predominantly one of reordering. Purchase of new inventory must be approved by the Building Use Manager. We conclude that the function and pay of the Book Center Supervisor are largely related to the individual's skill in effectively stocking and promoting items in the Book Store.

Catering Captain (Memorial Union)

The facilities of the Memorial Union and other food service units are often used for catered events. These range from catered coffee breaks to sit-down dinners for 400 people. The Catering Captain (Memorial Union) is paid \$2.30 per hour. The duties of the position are as follows:

Determine the number of waiters needed for a given function.

Assist Catering Manager in preparation of the daily and weekly work schedules for the 35 waiters, and the posting of same.

Order standard catering supplies, cash bags, and employee time cards.

Exercise responsibility for inventory, including liquor inventory; and assist occasionally with customer billing under the supervision of the Catering Manager.

Participate in hiring of waiters at the beginning of the semester.

Prior to commencement of a catered event, check to see if water is poured, the room set up is correct, ashtrays are on the table, and lighting is proper.

Call in additional help if it is needed, assign waiters to their work stations, and issue any special instructions.

At the request of the Assistant Building Use Manager or at own discretion function as a waiter or Head Waiter during a catered function; perform unit work 50% of the time.

Evaluate terminated employees, orally reprimand, recommend promotion or termination.

A civil service supervisor is present at most catered events.

We do not find a sufficient combination of factors to be present to establish that the Catering Captain position is supervisory. The hiring of waiters appears to be routine. Employment is largely related to the applicant's class schedule and hours available to work. Employee discipline is limited to routine direction of the work force. Again, we are most influenced by the Catering Captain's participation in unit work. The presence of a civil service supervisor and the routine nature of the Catering Captain's decision-making further justify a finding that the position is non-supervisory.

Catering Captain (Union South)

The duties of the Catering Captain (Union South) are primarily the same as those of the Catering Captain in the Memorial Union. However, the incumbent in the Union South has upon occasion substituted as a Red Oak grill supervisor, a position to be subsequently discussed.

We find the Catering Captain, Union South to be a non-supervisory employee. It appears that the position is restricted to the catering function. Therefore we have given no weight to the previous substitution of the incumbent in the Red Oak grill. Thus, we have applied the same criteria to the Catering Captain (Union South) position as we employed in the Catering Captain (Memorial Union) position. We find both to be non-supervisory positions.

Rathskeller Supervisor (Memorial Union)

The Rathskeller is a food service unit located on the first floor of the Memorial Union. The operation consists of a cafeteria line and bar servicing two rooms with a joint seating capacity of 400 people. The Rathskeller Supervisor earns between \$2.25 and \$2.30 as compared to \$1.75 to \$2.00 for unit employees. Rathskeller Supervisors work during the evenings and on weekends. The position is supervised by the Rathskeller manager, a civil service employee.

Normally, there are between six and eleven employees working in the Rathskeller unit when the Rathskeller Supervisor is in charge. The positions' duties include the following:

Prepare the master work schedule jointly with other Rathskeller Supervisors at the beginning of the semester.

Participate in interviewing and hiring job applicants, assist in training new employees.

At the beginning of the shift, read out the cash registers, check on the work crew, call in substitutes or personally fill in a position as needed, check food supplies, fill out a work report at conclusion of the shift, deposit cash in safe, check the cafeteria line to be sure that everything is shut off, lock freezers and lock up the premises. The remainder of work time, directly supervise employees.

Orally reprimand, adjust hours of employees and direct work force in performance of tasks, initial time cards for employees who fail to punch out, recommend termination.

Attend regular meetings of Rathskeller supervisor employees at which operational and personnel problems are discussed.

Beverly Kalscheur has been employed as a Rathskeller Supervisor and lead worker in the cafeteria. As a lead worker she has participated in the hiring and scheduling of cafeteria employees. She has recommended promotion and verbally reprimanded employees. During the unit's clean-up time, she has been responsible for the direction of the work force. At the hearing, the State Employer indicated that her duties as a lead worker were to be terminated. Whether or not this has, in fact, occurred is irrelevant to the finding herein.

We conclude that Rathskeller Supervisors, including the position of Beverly Kalscheur, are ineligible for inclusion in the bargaining unit. We have given consideration to the following factors. The Rathskeller Supervisor is solely responsible for the Rathskeller operation when on duty. Although the Rathskeller Supervisor may spend more than 50% of working time performing unit work on a busy shift, he generally spends a substantial period of time directly supervising the work activity of unit employees. In that no civil service supervisors are present when the Rathskeller Supervisor is in charge, we are further convinced that the Rathskeller Supervisor exercises independent judgment in the direction of the work force.

Red Oak/Snack Bar Supervisor (Union South)

The Red Oak grill and Snack Bar are adjoining food service facilities located in the Union South. The Snack Bar is open daily

Monday through Friday. The grill is open on weekends. Both are open for special events. The unit's work consists of counter and line service; specifically, dishing food, grilling, cleaning, cashiering, setting up and taking down equipment. A Red Oak/Snack Bar Supervisor is always present when the facility is open during the evening and on weekends. Normally, the work unit consists of two or three employees in the grill, one in the snack bar, and occasionally eight to ten catering employees.

The Red Oak/Snack Bar Supervisor earns \$2.10 per hour. On an average, said Supervisor works 28 to 30 hours per week on week nights and weekends. The duties of such positions are as follows:

Interview job applicants, hire employees at the beginning of the semester, schedule employees and update schedules, train employees.

At beginning of a shift, check schedule, call in replacements or extra help as needed, turn on grill, start coffee, check supplies and open up grill and bar areas to the public, fill out evening report noting any operational or personnel irregularities.

Reassign, orally reprimand or recommend disciplinary action; evaluate employees when they are eligible for wages increases.

Attend weekly meeting with supervisor to discuss problems and policies.

The Commission concludes that Red Oak/Snack Bar Supervisors are "supervisors" and that they should not be included in the bargaining unit. We are most influenced by the fact the Red Oak/Snack Bar Supervisor spends approximately 70% of his working time directly supervising employees. Secondly, the discretion exercised in the scheduling and directing of the work force indicates that the Rathskeller Supervisors possess supervisory responsibility.

Building Supervisors (Union South and Memorial Union),
Building Supervisor/Information Desk Supervisor
(Union South), and Building Supervisor/Page
Supervisor (Memorial Union)

Prior to the discussion of the duties of the Union South and Memorial Union Building Supervisors, it should be noted that testimony on said positions was adduced solely from individuals who hold job responsibilities in addition to those of the Building Supervisor.

Building Supervisors are responsible for the overall operation and maintenance of their assigned buildings. Such employees work less than 20 hours per week during the evenings and on weekends. During such hours they are the only supervisory employees on duty with the operational responsibility for the Union South or the Memorial Union. Building Supervisors are paid \$2.25 to \$2.45 per hour as compared to the starting rate of \$1.75 per hour for bargaining unit employees.

Eight or nine employees are present in the Union South when the Building Supervisor is on duty at that location. Of those, four are directly employed in building use. Twenty-five to thirty employees

are working in the Memorial Union when the Building Supervisor is present there. Likewise, four of those employees work in building use.

The duties of the Building Supervisors are varied but generally include the following:

Upon arrival, check the building use schedule; tour the building; and in particular, check the game room, information or main desk, food service and book center (Memorial Union) units.

Secure employee replacements if needed, reassign work force or perform the work himself within the game room and desk units.

At conclusion of shift, fill out evening report, lock up, ring out registers, deliver cash box to safe.

Attend weekly meeting of Building Supervisors and immediate supervisors.

Direct civil service maintenance crews in performance of work if necessary.

Close entire building in emergency situation or for lack of business.

In addition to the above responsibilities, the Building Supervisor/Information Desk Supervisor performs the following duties:

Hire information desk staff at beginning of the semester, conduct monthly meeting of such staff, order magazines and candy for counter at desk.

The Building Supervisor/Page Supervisor works 18 hours per week on week nights. In addition to the Building Supervisor's duties outlined above, the position's responsibilities are as follows:

Schedule pages, direct pages in work assignments (i.e., assist in determining the type of audio-visual equipment needed for a specific function).

We deem the Building Supervisors Memorial Union and Union South and the Building Supervisor/Information Desk Supervisor and the Building Supervisor/Page Supervisor to be supervisory employees. Building Supervisors spend 0 to 20% of their working time performing unit work. Furthermore, 30 to 40% of work time they spend touring the building and ringing out registers. It is evident that these positions all possess various factors relative to managerial or supervisory status. Building Supervisors exhibit managerial authority in their responsibility for the overall operation of their assigned building. The two Building Supervisors positions which include Information Desk or Page functions also possess direct supervisory authority over their respective subordinates.

Catering Supervisor (Union South)

The Catering Supervisor has been at times referred to as the Cafeteria-Catering Supervisor. The position is paid at the rate of \$2.50 per hour. The Catering Supervisor works 25 to 30 hours per

week. The function of the Catering Supervisor is to organize and supervise all catered events in the Union South. At such events, it is customary for one waiter to be on duty for each 18 to 20 guests. The Catering Supervisor spends 30% of his time working small events alone. On large catered functions, the Catering Supervisor spends 50 to 60% of his time supervising employees.

The duties of the Catering Supervisor include the following:

Participate in hiring at the beginning of the semester, assist in the rescheduling and training of employees, attend weekly meetings with immediate supervisor.

Prior to an event, gather together needed supplies and equipment, check on employees, call in replacements or dismiss surplus employees, sign employees' time cards if necessary.

Evaluate employees, reprimand, recommend discipline or termination.

Handle billing and ordering for catered events.

The Commission finds that the Catering Supervisor position is supervisory. The Catering Supervisor supervises 70% of all catered events in the Union South. Consideration of the Catering Supervisor's direct supervision of employees, scheduling, billing and ordering responsibilities substantiate the conclusion that the position is supervisory.

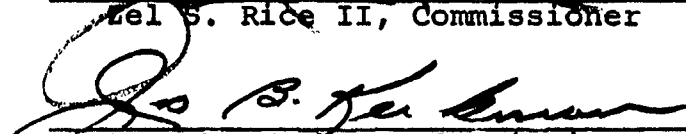
Dated at Madison, Wisconsin, this 10th day of November, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Del S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

