

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
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WISCONSIN COUNCIL OF COUNTY AND	:	
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO	:	Case XXI
	:	No. 15197 ME-740
Involving Certain Employes of	:	Decision No. 10789-A
	:	
EAU CLAIRE PUBLIC LIBRARY	:	
	:	

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ORDER DENYING MOTION TO REOPEN

The Wisconsin Employment Relations Commission heretofore and on February 15, 1972, issued a Direction of Elections in the above entitled matter wherein, in part, it directed that an election be conducted among all professional employes employed by the Eau Claire Public Library, excluding supervisors, confidential employes and all other employes of the Municipal Employer, to determine whether they desire to be represented for the purposes of collective bargaining by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO; and on February 29, 1972, said Municipal Employer, by its Counsel, having filed a petition to reopen the hearing and to review the Commission's Direction involving said professional employes; and the Commission having reviewed said petition and being fully advised in the premises, and being satisfied that the petition to reopen the hearing and review the Direction of Elections be dismissed;

NOW, THEREFORE, it is

ORDERED

That the petition to reopen the hearing and review the Direction of Elections be, and the same hereby is, dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 29th day of February, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*  
 Morris Slavney, Chairman

*Jos. B. Kerkman*  
 Jos. B. Kerkman, Commissioner

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: Decision No. 10789-A  
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MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION TO REOPEN

This proceeding was initiated by a petition filed by the Union on January 4, 1972. A hearing, pursuant to Notice, was conducted on January 24, 1972, where the parties were afforded the opportunity to present evidence with regard to the units appropriate for collective bargaining as well as to the eligibility of the employes involved. The Union originally desired a unit consisting of all library employes, excluding the director, administrative assistant and custodian. The Municipal Employer originally took the position that the professional librarians were supervisory and therefore should not be included in the unit desired by the Union as set forth in the petition. At that stage of the hearing the parties were advised by the Hearing Officer that under the Municipal Employment Relations Act professional employes cannot be included with a unit of non-professional employes unless the professional employes vote to be included in the non-professional unit. Thereafter the parties stipulated to two appropriate units, one consisting of all library employes, excluding professionals, supervisory and confidential employes and temporary employes, and the other consisting of all professional employes, excluding supervisors, confidential employes and all other employes of the Library. The parties also stipulated to the eligibility of all the employes in the non-professional unit with the exception of one position, that of Assistant Secretary, which the Municipal Employer contended was confidential. In its Direction the Commission concluded that the Assistant Secretary was not a confidential position and that it was properly included in the unit of non-professionals. The parties also stipulated that the Catalog Librarian, the Reference Librarian, the Adult Services Librarian and the Children's Librarian were all eligible to vote in the professional unit.

In its petition to reopen and review the Commission's Direction the Municipal Employer alleged that at the hearing it had contended that three of the four professionals were supervisory and that at no time did it waive such contention, and further that detailed evidence supporting such contention was not presented at the hearing "due to an apparent misunderstanding between the parties to the effect that petitioner had abandoned its contention about the supervisory status of the 3 employes, and further due to a misapprehension and inadvertent mistake on the part of petitioner as to the effect of Chapter 124, Laws of 1971, insofar as it relates to petitioner's contention herein."

The Municipal Employer in its petition requests the Commission to reopen the hearing to afford it the opportunity to present evidence in support of its contention that three of the 4 professionals are supervisors.

In light of the agreement reached during the course of the hearing with respect to the employes involved, the Commission has denied the Municipal Employer's petition to reopen the hearing. It sees no reason to review or amend its Direction of Elections.

Dated at Madison, Wisconsin, this 29th day of February, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*  
Morris Slavney, Chairman

*Jos. B. Kerkman*  
Jos. B. Kerkman, Commissioner