

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
 :
LOCAL 2, AFFILIATED WITH MILWAUKEE : Case VII
DISTRICT COUNCIL 48, AFSCME, AFL-CIO : No. 15127 ME-730
 : Decision No. 10896
Involving Certain Employees of :
 :
WHITNALL AREA SCHOOLS JOINT :
SCHOOL DISTRICT NO. 3 :
 :

Appearances:

Mr. Richard Massman, Staff Representative, appearing on behalf of the Petitioner.
Frisch, Dudek, Slattery and Denny, Attorneys at Law, by Mr. Robert D. Scott; Mr. Merton R. Bowyer, Superintendent, and Mr. William Kolkoski, Assistant Superintendent-Business Manager, appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTION

Local 2, affiliated with Milwaukee District Council 48, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employees of the Whitnall Area Schools Joint School District No. 3; and a hearing on said petition having been conducted by John T. Coughlin, a member of the Commission's staff, on January 19, 1972, at Milwaukee, Wisconsin; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for the above described employees;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission in the collective bargaining unit consisting of all custodial employees employed by Whitnall Area Schools Joint School District No. 3, excluding supervisory and craft employees, who were employed by the Municipal Employer on March 28, 1972, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining

whether a majority of said employees desire to be represented by Local 2, affiliated with Milwaukee District Council 48, AFSCME, AFL-CIO, for the purpose of collective bargaining with said Municipal Employer, on questions of wages, hours and conditions of employment.

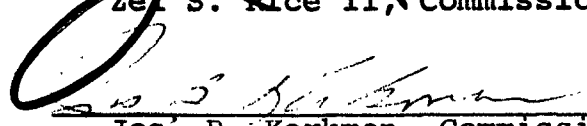
Given under our hands and seal at the City of Madison, Wisconsin, this 28th day of March, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slayney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

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WHITNALL AREA SCHOOLS JOINT SCHOOL	:	
DISTRICT NO. 3	:	
	:	

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing a question arose as to whether nine individuals occupying the position of Head Custodian or Head Night Custodian should be excluded from the petitioned for unit because they are supervisors. The Municipal Employer argues that the nine individuals in question are supervisors because each of them evaluates other custodial employees. The Employer points out that this evaluation contains a recommendation as to whether an employee be retained along with a recommendation as to whether said employee should receive a merit increase. Mr. Kolkoski, Assistant Superintendent and Business Manager for the Municipal Employer, testified that approximately ten custodial employees have been terminated by the School Board on the basis of the recommendation of a Head Custodian or Head Night Custodian. In addition, he testified that the aforementioned Head Custodians make recommendations concerning the overtime worked by custodial employees, and that said Head Custodians schedule the vacations for the other custodial employees. Furthermore, the Head Custodians prepare the work schedules for the other custodial employees. Finally, the Employer argues that, "If a supervisor is admitted to the bargaining unit comprised of regular employees, he be forced to stop functioning as a supervisor insofar as his supervisory duties would otherwise compel him to make a recommendation detrimental to the interests of a fellow member of the bargaining unit. For example, the fact of the matter is that a supervisor cannot retain his allegiance to management if he becomes a member of the Union."

The Union contends that to exclude nine of the 25 petitioned for employees as supervisors would frustrate Union organization. It argues that Kolkoski, the Municipal Employer's Assistant Superintendent and Business Manager, is the individual who possesses true supervisory responsibility over the petitioned for employees.

BACKGROUND

Evidence adduced at the hearing established that the named custodial and maintenance employees are employed at the following schools:

<u>Name</u>	<u>Classification</u>	<u>Hours Worked Per Week</u>
<u>High School</u>		
Norman Laack	Custodian IV	40
Wilmer Bleibaum	Custodian I	40
Robert L. Chase	Custodian I	40
Harry Deja	Custodian I	40
Orville Gleisner	Custodian II-A	40
William Kulik	Custodian I	40
Isabelle Heinz	Matron	
Anna Connell	Custodial-matron	20
Irene Dominski	Custodial-matron	20
Marion Kasch	Custodial-matron	20
Karl Juers	Custodian	35
<u>Middle School</u>		
Earl Christian	Head Custodian	40
Harold Gleisner	Head Nite Custodian	
Remainder of custodians under service contract.		
<u>Hales Corners Elem.</u>		
Ben Strzelec	Custodian III	40
Albert Jankowski	Custodian II-B	40
William Panek	Temporary-hourly	30
Nicolaus Matiuk	Custodian I	40
<u>Jefferson Elementary</u>		
Marcel Lochbaum	Custodian II-A	40
Tom Van Horn	Part-time Custodian	20
James Bolda	Part-time Custodian	20
<u>Valley View Elem.</u>		
Louis Kroening	Custodian II=A	40
Florence Stolpa	Custodial-part time	22 1/2
Thomas Stolpa	Custodial-part time	22 1/2
<u>Edgerton Elementary</u>		
Edward Stanford	Custodian II-B	40
Arthur Piotrowski	Custodial -part time	15

At all schools the Building Principal is primarily responsible for the evaluation of clerical, school lunch employes, custodial and teacher aides.

The Municipal Employer places heavy emphasis on the fact that the recommendations and information supplied on the performance evaluation utilized by it emanates from the Head Custodian or the Head Night Custodian. It argues that said custodians effectively recommend whether a custodian is retained or whether said employe is granted a merit increase. Although the personnel form in question calls for the principal's signature, testimony reveals that in the past two years ten custodians have been terminated on the recommendation of either the Head Custodian or the Head Night Custodian. The record reveals that there are instances in which the school building principal does not even know the name of the custodians in his building because said custodians work a majority of their time when he is not present. Furthermore, custodians continue to perform their functions during holiday periods and during the summer vacation when the principal generally is not present.

DISCUSSION CONCERNING THE INDIVIDUALS CLAIMED TO BE SUPERVISORS:

Norman Laack, Head Custodian at the Whitnall High School, and Orville Gleisner, Head Night Custodian at the aforementioned high school, spend 50% of their time inspecting custodians' work, preparing said custodians' work schedules and evaluating those employees. Laack has three full-time custodians under his direction and Orville Gleisner has two full-time employees and four part-time employees under his direction. Because of the number of employees that Laack and Orville Gleisner have under their direction and the fact that they spend 50% of their time inspecting and directing the work of these custodians coupled with their ability to effectively make recommendations concerning the aforesaid custodial employees' retention, merit pay, vacations, overtime and work schedules, we find that Laack and Orville Gleisner are supervisors.

Earl Christian, Head Custodian at the Whitnall Middle School, works completely alone. He recommends whether Harold Gleisner be retained and whether he receives a merit increase. However, this activity of evaluating Harold Gleisner, standing alone, is not in and of itself sufficient to render him a supervisor. Therefore, we find that Christian is not a supervisor.

Harold Gleisner, Head Night Custodian in the Whitnall Middle School has no employees of the Employer under his control. In the Whitnall Middle School all night custodial work is performed by an outside contractor which in turn utilizes and pays its own employees. No employees of the instant Employer are utilized by the outside contractor. The fact that Harold Gleisner may supervise the outside contractor's employees does not make him a supervisor for, as stated previously, said employees are not employees of the instant Employer. In order for Harold Gleisner to be a supervisor the supervisory relationship must exist between himself and employees of the Whitnall Middle School. Therefore, we conclude that Harold Gleisner is not a supervisor.

Ben Strzelec, Head Custodian at the Hales Corners Elementary School, works alone during the day. While he may recommend whether Albert Jankowski, the Head Night Custodian, is retained or receives a merit increase, and while he inspects the work performed by Jankowski and the two individuals who work with Jankowski on the night shift, Strzelec spends only from 20 to 30% of his time in such activity, and therefore, we conclude that Strzelec is not a supervisor within the meaning of the Act.

Albert Jankowski, Head Night Custodian in the Hales Corners Elementary School, has one part-time and one full-time custodian working with him. Testimony revealed that although he spends approximately 25% of his time assigning custodial work to the other two custodians on the night shift, he himself has a certain number of rooms he cleans and maintains. Therefore, we conclude that Jankowski functions are in the main those of a leadman and that therefore he is not a supervisor.

Marcel Lochbaum, Head Custodian of the Jefferson Elementary School, spends 10 to 20% of his time directing the other two part-time custodial employees at the aforementioned school. The remaining 80% of the 40 hours he works is spent doing maintenance work. 1/ Based on the small number

1/ It should be noted that the job description for the Head Custodian at the Jefferson and Valley View Schools include the performance of maintenance type work.

of employes potentially under his control and the minimal amount of time spent in any sort of supervisory activity, we find Lochbaum not to be a supervisor.

Louis Kroening, Head Custodian at the Valley View Elementary School, spends 10 to 20% of his time directing the other two part-time employes that work with him. He, like Lochbaum, spends the balance of his time engaged in maintenance work. Therefore, for the same reasons that were set forth above concerning Lochbaum we find Kroening not to be a supervisor.


Edward Stanford, Head Custodian at the Edgerton Elementary School, spends less than 10 to 20% of his time directing the one other part-time employe that works with him. Even though Stanford does evaluate the aforementioned employe concerning retention and the reception of merit pay, said activities are too minimal to compel the Commission to conclude that Stanford is a supervisor. 2/

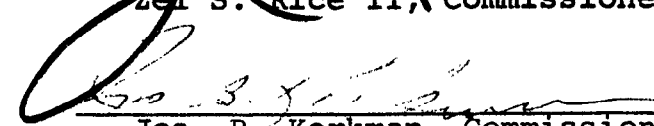
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2/ Although the term "Head Custodian" is utilized in this memorandum to describe the custodians in question at the Jefferson, Valley View and Edgerton schools, the Municipal Employer testified that there is no designated "Head Custodian" at the aforementioned schools.