

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 21, AFL-CIO

Involving Certain Employees of

LA CROSSE JOINT SCHOOL DISTRICT NO. 5

Case XII
No. 15135 ME-733
Decision No. 10980
Decision No. 6912

Appearances:

Mr. Robert Woodruff, President, for the Union.

Mr. William J. Sauer, Attorney at Law, for the Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT

Service Employees International Union Local 21, AFL-CIO, initiated a proceeding to clarify an existing certified collective bargaining unit consisting of certain employees in the employ of Joint School District No. 5, La Crosse, Wisconsin; and hearing in the matter having been conducted on January 26, 1972, Commissioner Zel S. Rice II being present; and the Commission, having considered the evidence and arguments of the parties, being fully advised in the premises makes and issues the following

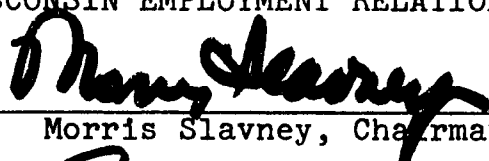
ORDER

That the collective bargaining unit, previously certified by the Wisconsin Employment Relations Commission on December 23, 1964, consisting of "all regular full-time and regular part-time custodians, engineers, bus drivers and storekeepers in the employ of La Crosse Joint School District No. 5 but excluding clerks, office and secretarial help, cooks, teachers, all supervisors, and carpenters" be amended to reflect that the classifications of General Maintenance Man I and II are to be included in said collective bargaining unit, and therefore, the amended certified unit now reads as follows: all regular full-time and regular part-time Custodians, General Maintenance Man I and II, Engineers, Bus Drivers and Storekeepers in the employ of La Crosse Joint School District No. 5 but excluding Clerks, Office and Secretarial help, Cooks, Teachers, all Supervisors, and Carpenters.

Given under our hands and seal at the
City of Madison, Wisconsin this 4th
day of May, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Les. B. Kerkman, Commissioner


Zel S. Rice II, Commissioner

No. 10980
No. 6912

Service Employees International Union Local 21, AFL-CIO, hereinafter referred to as the Union, initiated the instant proceeding by the filing of a petition requesting an election among the "General Maintenance" staff in the employ of La Crosse Joint School District No. 5, hereinafter referred to as the Municipal Employer. Hearing in the matter was commenced on January 4, 1972, and at such hearing the Union amended its petition to seek clarification of an existing certified collective bargaining unit rather than an election.

The evidence discloses that, pursuant to a stipulation executed by the Union and the Municipal Employer, an election was conducted by the Commission in November, 1964, among "all regular full-time and regular part-time custodians, engineers, bus drivers and storekeepers in the employ of the Municipal Employer, but excluding clerks, office and secretarial help, cooks, teachers, all supervisors, and carpenters". At the time of the execution of the stipulation and the conduct of the election, four employees were employed in the classification of "Extra Men" and for some reason, not disclosed, the individuals occupying said position were not included on the list of fifty-one employees stipulated as being eligible to participate in the election. As can be observed from the description of the unit involved in the election, the position of "Extra Men" was neither included in the eligibles nor excluded as not eligible in the unit. The election was conducted on November 9, 1964, and of the fifty-one employees eligible to vote, forty-nine cast ballots, all in favor of the Union. No votes were cast against representation by the Union. Following the certification of the results of the election, the Union and the Municipal Employer entered into successive collective bargaining agreements, the last of such agreements being in effect January 1, 1972, through December 31, 1972. Such agreement covers the wages, hours and working conditions of classifications entitled Custodians, Bus Drivers, Storekeepers and Engineer-Custodians I, II and III.

At the time of the election, and unknown to the Commission, as a result of the stipulation entered into by the parties, the four "Extra Men" were employed in the Department of Building and Grounds in which the above classifications in the unit were employed. In 1970, the classification of "Extra Men" was changed to "General Maintenance Man I and II". Persons occupying the General Maintenance position, perform work comparable to that of custodial personnel, with the exception that the custodial personnel who are presently covered by the existing collective bargaining agreement are assigned to specific schools, while the General Maintenance employees work out of the maintenance shop and perform their duties in various schools on a day-to-day basis as they are needed because of special projects or the absence of one of the regular custodial employees. The General Maintenance employees also transport supplies and deliver lunches to the various schools.

Prior to November 11, 1971, the effective date of the newly amended Municipal Employment Relations Act, the Commission had no discretion in establishing bargaining units. The appropriate unit consisted of all employees of the Municipal Employer (with the exception of professional and craft employees) unless employees engaged in the separate department or division, when they desired, were given the opportunity to establish such separate department or division as a separate collective bargaining unit.

Under the newly amended Act,^{1/} units are no longer statutorily fragmented; rather the Commission is given discretion to determine the appropriate collective bargaining unit and to "avoid fragmentation" to bargaining units.^{2/}

The type of work performed by the General Maintenance Men and their community of interest with the employees in the existing unit, the latter being based upon such factors as the nature of the work performed, training and skills involved, and other common factors. In the original election proceeding, had it been brought to the attention of the Commission that "Extra Men" were employed in the Department of Building and Grounds, the Commission would have included said position, and the individuals occupying same, in the appropriate collective bargaining unit. The mere fact that they were not assigned to any particular school would not have constituted sufficient grounds from excluding them from the unit.

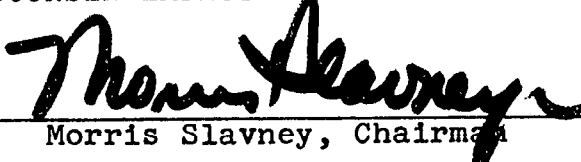
The fact that there is no past collective bargaining history for either the "Extra Man" or the General Maintenance Man classification does not convince the Commission that they should not be included in the existing unit nor, as the Employer contends, should the persons occupying the General Maintenance men positions be given the opportunity to determine for themselves whether they desire to become part of the existing unit, for such a conclusion by the Commission would result in undue fragmentation of bargaining units, which the present Act discourages.

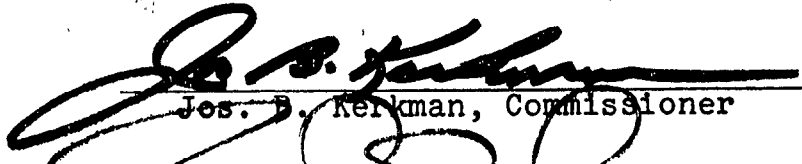
Since the results of the original election overwhelmingly indicated that the employees involved selected the Union as the bargaining representative the inclusion of the position of General Maintenance Man I and II in the unit would, and does not affect, the representative status of the Union. We, therefore, have issued an Order clarifying the bargaining unit to include the positions of General Maintenance Man I and II in the unit presently represented by the Union. Our determination herein is not intended to extend the coverage of the 1972 collective bargaining agreement to the position of General Maintenance Man I and II, unless the parties voluntarily agree to bargain such coverage.

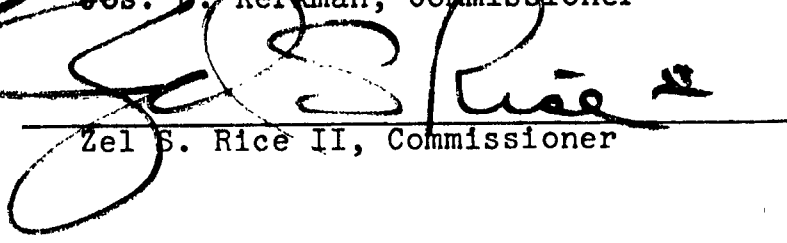
Dated at Madison, Wisconsin, this 4th day of May, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner


Zel S. Rice II, Commissioner

^{1/}Effective November 11, 1971

^{2/}Sec. 111.70(4)(d)

