

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Stipulation of
EAU CLAIRE COUNTY and GENERAL
DRIVERS AND HELPERS UNION, LOCAL 662
Involving Certain Employees of
EAU CLAIRE COUNTY

Case XXIV
No. 15666 ME-796
Decision No. 11030-B

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER
AMENDING CERTIFICATION

Eau Claire County having, on April 26, 1978, filed a petition for declaratory ruling wherein it asked, inter alia, 1/ that the Commission determine whether certain employees identified as "cooks, matrons and cook/matrons" 2/ are properly included in a bargaining unit of non-supervisory law enforcement personnel previously certified by the Commission; 3/ and the Commission having determined to treat said petition as a petition for unit clarification; 4/ and the parties having agreed to waive hearing in the matter, and agreed that the Commission should decide the question on the basis of the facts set out in the petition, and as supplemented by the Union in its response thereto; and the Commission having reviewed the information submitted and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order Amending Certification.

FINDINGS OF FACT

1. That Eau Claire (herein County) is a municipal employer within the meaning of Section 111.70(1)(a) of the Municipal Employment Relations Act (MERA) and operates a Sheriff's Department which employs law enforcement personnel.

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- 1/ The County also asked the Commission to determine whether the Union's longevity pay proposal was within the scope of its reopener clause with the Union which provides for negotiation of "wages" for 1978. On May 9, 1978, the Commission held that that issue, which arose under Section 111.70(4)(b) of the MERA, should be decided separately from the issue raised herein which arises under Section 111.70(4)(d) of the MERA. Eau Claire County (16354 and 11030-A). Said decision was issued on May 24, 1978 in Eau Claire County (16354-A).
- 2/ In its petition the County identified the six employees as "two cooks and four cook/matrons." In the recognition agreement the employees are identified as "cooks, matrons and cook/matrons." In its response to the Employer's petition, the Union notes that the terms "cook" and "matron" are used interchangeably to describe employees who perform duties as cooks and matrons in various proportions. All apparently function as matrons.
- 3/ Decision No. 11030, 5/25/72.
- 4/ Decision No. 11030-A, 5/9/78.

No. 11030-B

2. That General Drivers and Helpers Union, Local 662 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (herein Union) is a labor organization within the meaning of Section 111.70(1)(j) of the MERA and is the certified bargaining representative of all full-time deputy sheriffs of the County employed in its Sheriff's Department, excluding the sheriff, supervisory deputy sheriffs and all other employees of the County; that since January 1, 1977, the County has employed approximately six employees who are classified as cooks, matrons and cook/matrons; that on or about January 1, 1977 the County agreed to include said employees to said bargaining unit; that said employees are deputized and work under the following conditions, among others:

"1. Although deputized, they are prohibited by departmental policy from using arrest powers in public.

2. They are not authorized to carry a weapon.

3. When accompanying a female prisoner outside the jail facility, a male deputy is always in attendance.

4. They do not attend the 320 hour recruit school required of deputy sheriffs."

3. That the cooks, matrons, and cook/matrons employed by the County in its Sheriff's Department perform duties related to the law enforcement function and have the power of arrest.

Based on the above and foregoing Findings of Fact, the Commission makes and enters the following

CONCLUSION OF LAW

That the cooks, matrons and cook/matrons employed by the County are law enforcement personnel within the meaning of Section 111.77 of the Municipal Employment Relations Act, and, therefore, are properly included in the bargaining unit consisting of non-supervisory law enforcement personnel employed by the County and that said unit is an appropriate bargaining unit within the meaning of Section 111.70(4)(d)2a of the Municipal Employment Relations Act.

Based on the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and enters the following

ORDER

That the cooks, matrons and cook/matrons employed by the County are hereby included in the bargaining unit of non-supervisory law enforcement personnel employed by the County in its Sheriff's Department and said bargaining unit is hereby amended to reflect their inclusion to read as follows:

All full-time deputy sheriffs of the Eau Claire County Sheriff's Department, including cooks, matrons and cook/matrons, but excluding the Sheriff, supervisory deputy sheriffs and all other employees of Eau Claire County.

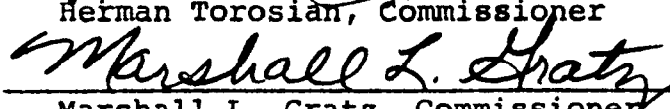
Given under our hands and seal at the City of Madison, Wisconsin this 7th day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION
OF LAW AND ORDER AMENDING CERTIFICATION

There is no dispute concerning the facts in this case. The County employs approximately six employees who function as cooks and matrons and are variously identified as cooks, matrons and cook/matrons. These employees are deputized and vested with the power of arrest, but, under departmental policy, are prohibited from using their arrest powers in public.

Prior to 1977 these employees were "employed" and paid by the Sheriff. Since January 1, 1977 they have been considered employees of the County. The parties agreed at that time to accrete them to the bargaining unit of non-supervisory law enforcement personnel represented by the Union and negotiated an appendix to their 1977-1978 collective bargaining agreement setting out the wages, hours and conditions of employment which would apply in their case. During the course of the negotiations under a wage reopener provision contained in that agreement, a dispute arose as to whether said employees are properly included in the bargaining unit of non-supervisory law enforcement personnel for purposes of the application of the provisions of Section 111.77 of the MERA.

The Commission has consistently held that only employees who perform duties related to law enforcement function and have the power of arrest are law enforcement personnel for purposes of the application of the provisions of Section 111.77 of the MERA. 5/ The fact that the instant employees have been instructed not to utilize their arrest powers in public and are assisted by a male deputy when accompanying a female prisoner outside the jail does not alter the fact that they perform law enforcement functions and have the power of arrest. Consequently, we have concluded that they are properly included in the bargaining unit of non-supervisory law enforcement personnel and have amended the certification to reflect their inclusion.

Dated at Madison, Wisconsin this 7th day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
Marshall L. Gratz, Commissioner

5/ See Waukesha County (Sheriff's Dept.) (14534-A) 11/76 and the cases cited therein.