

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

CITY OF MANITOWOC and WISCONSIN :
COUNCIL OF COUNTY AND MUNICIPAL :
EMPLOYEES :

For Unit Clarification :

Case XVI
No. 15590 ME-789
Decision No. 11069

ORDER CLARIFYING BARGAINING UNIT

City of Manitowoc and Wisconsin Council of County and Municipal Employees having requested the Wisconsin Employment Relations Commission to clarify whether the Chemist, the Assistant Superintendent of Cemetery and Parks, the Assistant Superintendent of the Sewage Plant, and the Housing Manager should be included or excluded from a certified collective bargaining unit consisting of all regular full-time and all regular part-time office personnel and custodial employees of the City of Manitowoc, employed in the City Hall and associated departments including Sewage Plant, Cemetery and Park Department, Street Department, Police Department and Housing Authority, but excluding Department Heads, Supervisors, City Sanitarian, Confidential Secretary, Public Health Nurses, Sewage Plant Operators, Bridge Tenders, hourly employees in the Street and Cemetery and Park Departments, and all other employees of the Municipal Employer; and hearing in the matter having been held at Manitowoc, Wisconsin, on June 6, 1972, Stanley H. Michelstetter, a staff member of the Commission being present; and the Commission having reviewed the evidence and arguments of the parties, and being fully advised in the premises, makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

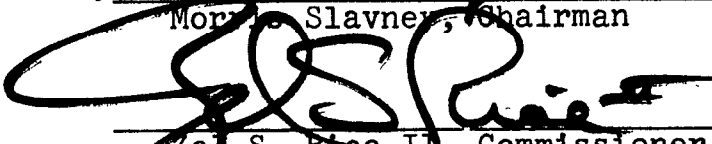
That the position of (1) Chemist is excluded from the above described bargaining unit for the reason that it is a professional position; (2) that the position of Assistant Superintendent of Cemetery and Parks and the position of the Assistant Superintendent of the Sewage Plant are excluded from the unit for the reason that such positions are supervisory; and (3) that the position of Housing Manager is excluded from the unit for the reason that said position is managerial.

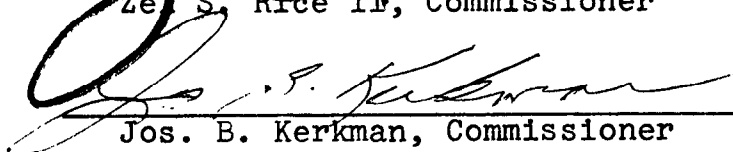
Given under our hands and seal at the
City of Madison, Wisconsin, this 15th
day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Ze S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

On September 6, 1966, following an election conducted by the Wisconsin Employment Relations Commission, the Commission certified the Union as an exclusive collective bargaining representative of certain employees of the City of Manitowoc employed in the collective bargaining unit consisting of all regular full-time and all regular part-time office personnel and custodial employees of the City of Manitowoc, employed in the City Hall and associated departments including Sewage Plant, Cemetery and Park Department, Street Department, Police Department and Housing Authority, but excluding Department Heads, Supervisors, City Sanitarian, Confidential Secretary, Public Health Nurses, Sewage Plant Operators, Bridge Tenders, hourly employees in the Street and Cemetery and Park Departments, and all other employees of the Municipal Employer.

On May 2, 1972, the Municipal Employer petitioned the Commission for a clarification of the bargaining unit and the Union having joined in said request, setting forth therein that a dispute existed between the Municipal Employer and the Union as to whether the Chemist, the Assistant Superintendent of Cemetery and Parks, the Assistant Superintendent of the Sewage Plant, and the Housing Manager should or should not be included in the certified collective bargaining unit. During the course of the hearing the parties were permitted the opportunity to present evidence and argument with regard to their respective positions in the matter. The Municipal Employer contended that the Chemist should be excluded on the basis that said employee was a professional employee; that the Assistant Superintendent of the Cemetery and Parks and the Assistant Superintendent of the Sewage Plant, as well as the Housing Manager were supervisors, and therefore, should be excluded from the unit.

THE CHEMIST

The Chemist is employed in the Sewage Plant where he performs various tests requiring the use of independent judgment and intellectual ability. The present occupant of the position is a graduate of the University of Wisconsin with a degree in Chemistry. The duties performed by him require the skills possessed of a person with such a degree. We conclude that the Chemist is a "professional employee" within the meaning of Section 111.70(1)(L)1 of the Municipal Employment Relations Act. Professional employees may only be included in units of non-professional employees, if they so choose, in an election conducted by the Commission.^{1/} Since no such election has been conducted by the Commission, the Chemist is not properly within the unit involved herein. Of course, there is nothing to prevent the Union from filing a petition requesting that an opportunity be given to the Chemist to determine whether he desires to be included in the existing bargaining unit.

THE ASSISTANT SUPERINTENDENT OF CEMETERY AND PARKS

The person occupying said position supervises thirty regular employees and as many as forty-four temporary employees. In that regard said individual has effectively hired, transferred and disciplined temporary employees. He has the authority to recommend the discharge, discipline and promotion of full-time employees. We conclude that the Assistant Superintendent of Cemetery and Parks is a supervisor within the meaning of the Municipal Employment Relations Act, and is therefore, excluded from the existing unit.

^{1/}Section 111.70(4)(d)2.a

THE ASSISTANT SEWAGE PLANT SUPERINTENDENT

The individual occupying the position involved assigns work to ten full-time and two part-time employees employed in the Sewage Plant. He may recommend discipline and discharge and has the authority to resolve grievances. We conclude that the Assistant Sewage Plant Superintendent is a supervisory employee, and therefore, is excluded from the unit.


THE HOUSING MANAGER

This position is occupied by an individual who works twenty hours per week. There is only one other position, that of custodian, assigned to the Public Housing Project. The primary responsibility for the management of said function resides with a Board. However, the day-to-day management of the Project lies with the Housing Manager. In addition to supervising the work of the one custodian, the occupant of the position is responsible for the management of the Project, including relationships with tenants, and we conclude that the occupant is a "managerial employee" and therefore, not an "employee" within the meaning of Section 111.70(1)(b) of the Act.


Dated at Madison, Wisconsin, this 15th day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


J. S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner