

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

CALUMET COUNTY EMPLOYEES LOCAL :  
#1362, AFSCME, AFL-CIO :

Case III

No. 15552 ME-783

Decision No. 11158

Involving Certain Employees of :

CALUMET COUNTY :  
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Appearances:

Mr. Michael J. Wilson, District Representative, AFSCME, AFL-CIO,  
appearing on behalf of the Petitioner.

Mr. Clarence A. Pagel, Chairman of Salary and Personnel Committee,  
Calumet County, appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTION

Calumet County Employees Local #1362, 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 County of Calumet; and hearing on such petition having been conducted on July 5, 1972, at Chilton, Wisconsin, by Jos. B. Kerkman, Commissioner; and the Commission having considered the evidence and positions of the parties, and being satisfied that a question has arisen concerning representation for certain employees of Calumet County;

NOW, THEREFORE, it is


DIRECTED

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time and regular part-time clerical and maintenance employees of Calumet County employed in the Calumet County Courthouse, but excluding supervisory, managerial and confidential employees for the purpose of determining whether a majority of such employees desire to be represented by Calumet County Employees Local #1362, AFSCME, AFL-CIO, for the purposes of collective bargaining with Calumet County on the questions of wages, hours and conditions of employment for those employees employed by Calumet County on July 5, 1972, unless they quit their employment or are terminated for cause between July 5, 1972, and the date of the election.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 20th  
day of July, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing the parties stipulated to the conduct of the election, however, three issues arose as to whether three positions should be properly included or excluded from the unit. The positions are as follows: (1) Deputy County Clerk; (2) Register in Probate; and (3) Administrative Assistant I--Department of Social Services.

The Union takes the position that the Deputy County Clerk, Marjorie Krueger, properly falls within the description of the unit and the position should be included, and that the incumbent should be allowed to vote. The County maintains that the position of Deputy County Clerk is a confidential position and the position should be excluded from the unit, and that the incumbent should not be allowed to vote. Testimony shows that Marjorie Krueger is involved in the typing of minutes which indicates positions that are to be taken by the County at the bargaining table. While she is not present during the meeting itself, she is privy to confidential information regarding the position of the County relative to possible monetary offers that will be made in the future to the Union as well as positions on language demands that the Unions might bring. In addition the testimony shows that these minutes further disclose alternate positions that the County might take at the table. The meetings whose minutes she transcribes are not of public record since all meetings of this type are held in executive session. The Commission is persuaded that the position of Deputy County Clerk should be excluded from the bargaining unit by reason of Marjorie Krueger's confidential status in taking the minutes as described above.

The Union contends that the position of Register in Probate occupied by Jean Hoffmann should be included in the unit. The County contends that the position should be excluded as supervisory. It is clear from the testimony of David H. Sobora, County Judge, Calumet County, that Jean Hoffmann's duties as Register in Probate are administrative. Judge Sobora testified that she has no supervisory or managerial responsibility. In fact there are no other employees in the Department that she could supervise. It is clear to the Commission that the position of Register in Probate occupied by Jean Hoffmann should be and is included in the unit.

The Union would exclude the position of Administrative Assistant I occupied by Dorothy Bornemann from the unit as supervisory while the County would include the position and contends that Dorothy Bornemann would be eligible to vote in the election. The job description submitted in evidence which outlined the duties of Administrative Assistant I clearly shows that the majority of the duties of this position are administrative in nature, e.g., answering inquiries; act as receptionist; refer clients; prepare summary of administrative actions; prepare social security aids' payrolls; etc. The areas of responsibility which have some supervisory relationship in the position of Administrative Assistant I are as follows:

"Establish and modify at times, an office routine to maintain flow of work so various reports and procedures are completed on time.

Assist in supervision of Clerk I and help in assigning clerical duties in addition to those assigned by Director and Social Workers.

When new clerk enters agency help her become acclimated to agency and her specific duties, help interpret office procedures and policies, and help with any questions she may have regarding her work."

It was the testimony of Florence Woelfel, the Director of Social Services, that Dorothy Bornemann performed the duties as outlined in the aforementioned job description. However, in further testimony it was brought out that Dorothy Bornemann has no authority to make transfers. It was further brought out that while she makes certain work assignments to clerical employees she is not the only person in the Department to make such assignments; the Director of Social Services and the Social Workers also give work assignments to the clerical employees. Woelfel's testimony further brought out that there has never been an occasion to reprimand employees but if there were, Dorothy Bornemann would have to review any reprimand or disciplinary action with Woelfel and then Woelfel with Bornemann would decide what course of action to take. Further testimony indicates that Bornemann has no role in the interviewing of prospective employees, but does participate to the limited extent of reviewing applications with Woelfel. Specifically Woelfel testified that recommendations not to hire or to hire would be discussed but that the recommendation would not necessarily be followed. Woelfel further testified that any recommendation for termination that Bornemann might make would result in Woelfel's looking into the matter and considering the recommendation, but that Woelfel would act on the basis of her own investigation and not on the recommendation of Bornemann per se.

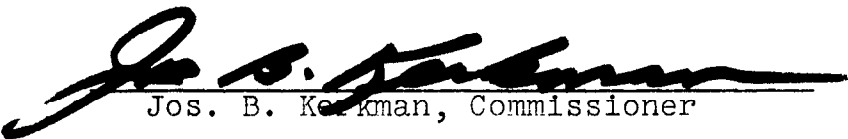
Supervisor is defined in the statute as "...any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."<sup>1/</sup> It is clear to the Commission that Dorothy Bornemann functioning in the position of Administrative Assistant I does not possess sufficient authority nor do her recommendations carry sufficient weight to exclude her as a supervisor. She is therefore included in the unit.

Dated at Madison, Wisconsin, this 20th day of July, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Jos. B. Kirkman, Commissioner

<sup>1/</sup> Section 111.70(1)(c), Wisconsin Statutes.