

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

HORTONVILLE JOINT SCHOOL DISTRICT NO. 1

Involving Certain Employes of

HORTONVILLE JOINT SCHOOL DISTRICT NO. 1

Case I  
No. 15862 ME-820  
Decision No. 11242-A

Appearances:

Ms. LeNore J. Hamrick, District Representative, WCCME, appearing on behalf of the Union.

Mr. Marvin Obry, Superintendent, appearing on behalf of the Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT

Hortonville Joint School District No. 1 having requested the Wisconsin Employment Relations Commission to issue an Order clarifying the existing certified collective bargaining unit consisting of "all regular full-time and regular part-time custodial and maintenance employes employed by the Hortonville Joint School District No. 1, excluding supervisory employes", presently represented by Local No. 1035-D, WCCME, AFSCME, AFL-CIO, to determine whether the position of Maintenance Foreman should be included or excluded from the aforementioned bargaining unit; and hearing 1/ in the matter having been held at Appleton, Wisconsin on May 4, 1977, Douglas V. Knudson, Examiner, being present; and the Commission having considered the evidence and arguments, and being fully advised in the premises, makes issues the following

ORDER

That the position of Maintenance Foreman is hereby included in the collective bargaining unit consisting of "all regular full-time and regular part-time custodial and maintenance employes employed by the Hortonville Joint School District No. 1, excluding supervisory employes."

Given under our hands and seal at the City of Madison, Wisconsin this 5th day of August, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BY Thomas Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Charles D. Hoornstra  
Charles D. Hoornstra, Commissioner

1/ The parties waived, in writing, the preparation of a transcript of the proceeding and the provisions of Section 227.09(4) of the Wisconsin Statutes.

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

The Municipal Employer contends that the position of Maintenance Foreman is supervisory and/or managerial in nature and must, therefore, be excluded from the bargaining unit. Conversely, the Union argues that said position is neither supervisory nor managerial and, therefore, should be included in the bargaining unit.

The maintenance Foreman reports to the Superintendent and oversees the activities of the eight custodial employes. The Maintenance Foreman routinely assigns custodial employes to special projects, such as mowing grass, painting, snow shoveling and plowing, putting away supplies, etc. Said Maintenance Foreman performs heating, electrical, plumbing and general repairs and maintenance. He does not perform custodial duties on a regular basis. He is on call for maintenance problems in evenings.

On the last two occasions when custodial employes were hired, the Superintendent discussed the applicants with the Maintenance Foreman. However, the Maintenance Foreman did not interview any of the applicants.

The Maintenance Foreman does not formally evaluate the performance of the custodial employes. He has not disciplined any custodial employes, nor made any recommendations for disciplinary action. During the school year he works the day shift and is not present during the evening shift when five of the eight custodial employes are working.

When the Superintendent prepares the custodial and maintenance budget, he confers with the day shift custodial employes as well as the Maintenance Foreman.

Although the Municipal Employer asserted the Superintendent required a non-bargaining unit employe to supervise the custodial employes, the record clearly establishes that the Maintenance Foreman is not vested with sufficient supervisory authority to require the exclusion of the position from the bargaining unit as a supervisor. 2/ Similarly, the record is clear that the Maintenance Foreman lacks the degree of authority or responsibility, for formulating and implementing management policies, necessary to constitute a managerial position. Based on the Maintenance Foreman's minimal authority for assigning duties and for reporting employe problems to the Superintendent, the Commission concludes that the Maintenance Foreman functions as a working foreman, 3/ and thus, the position is properly included in the bargaining unit.

Dated at Madison, Wisconsin this 5th day of August, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

Charles D. Hoornstra  
Charles D. Hoornstra, Commissioner

2/ Wood County (13760) 6/75.

3/ Greenfield School Dist. #6 (10788) 2/72; Lake Geneva Jt. School Dist. No. 1 (11688) 3/73; Wautoma Jt. School Dist. #1 (12300) 11/73.