

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

GENERAL DRIVERS & HELPERS UNION
LOCAL 354, AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

Involving Certain Employes of

PORTAGE COUNTY (DEPARTMENT OF
SOCIAL SERVICES)

Case XI
No. 15860 ME-818
Decision No. 11308

Case XII
No. 15861 ME-819
Decision No. 11309

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., appearing on behalf of the Petitioner.
Mr. Malcolm H. Einerson, Representative, Council #40, AFSCME, AFL-CIO, appearing on behalf of the Intervenor.
Mr. Ray Bartkowiak, Portage County Department of Social Services, Director, for the Employer.

DIRECTION OF ELECTIONS

General Drivers & Helpers Union, Local 354, affiliated with the International Brotherhood of Teamsters, herein referred to as the Petitioner, having filed and amended petitions with the Wisconsin Employment Relations Commission to conduct elections, pursuant to Section 111.70, Wisconsin Statutes, among certain employes of Portage County Department of Social Services, herein referred to as the Employer; and a hearing on such petition having been conducted at Stevens Point, Wisconsin on August 29, 1972, Donald B. Lee, Hearing Officer, being present; and during the course of the hearing Portage County Courthouse and County Home Employees, Local 348, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having been permitted to intervene in the matter; and the Commission having considered the evidence and arguments of Petitioner and Intervenor and being satisfied that questions concerning appropriate units and representation have arisen involving certain employes of the above named Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive, in the following voting groups:

No. 11308
No. 11309

Voting Group No. 1

All regular employees of the Portage County Department of Social Services at Stevens Point, Wisconsin, conditionally excluding social workers; and fully excluding the Director, and supervisors;^{1/} who were employed on August 29, 1972, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented by General Drivers & Helpers Union, Local 354, affiliated with the International Brotherhood of Teamsters or by Portage County Courthouse and County Home Employees, Local 348, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of collective bargaining with the above named Municipal Employer on questions of wages, hours and conditions of employment.

Voting Group No. 2

All social workers in the regular employ of the Portage County Department of Social Services at Stevens Point, Wisconsin, excluding the Director, supervisors and all other employees, who were employed on August 29, 1972, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining

- 1) Whether a majority of such employees desire to be included in one single bargaining unit consisting of the employees set forth in Voting Group No. 1 above, and
- 2) Whether a majority of such employees desire to be represented by General Drivers & Helpers Union, Local 354, affiliated with the International Brotherhood of Teamsters or by Portage County Courthouse and County Home Employees, Local 348, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO.


Given under our hands and seal at the City of Madison, Wisconsin, this 26th day of September, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman



Zel S. Rice II, Commissioner

^{1/} The supervisory positions were stipulated to be Social Work Supervisor I's and Administrative Assistant I.

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

General Drivers and Helpers Union, Local 354, affiliated with the International Brotherhood of Teamsters, by petitions dated July 17, 1972 and amended on August 29, 1972, has petitioned the Wisconsin Employment Relations Commission to conduct elections among all regular non-professional employees, and all professional employees, excluding the Director and supervisory employees in the employ of Portage County Department of Social Services. Portage County Employees, Local 348, AFSCME, AFL-CIO, was permitted to intervene on the basis of its claim that it presently represents the non-professional employees in the Department of Social Services in an overall unit of Portage County employees.

The Petitioner desires a unit consisting of all regular non-professional Portage County Department of Social Services employees, distinct from the existing, certified county-wide unit represented by the Intervenor, and that, the professional social workers in the department be afforded the opportunity to vote on whether they desire to be included in the unit of regular non-professional employees in the Portage County Department of Social Services.

The Petitioner asserts that the proposed unit is appropriate for the following reasons:

- 1) Persons in the Department of Social Services engage exclusively in social welfare work. There is no interaction between the Department's employees and other County employees.
- 2) The Department of Social Services' hiring requirements, salary range and department operations are uniquely established or significantly affected by state law.
- 3) Consideration of past bargaining history indicates that employees in the Social Services Department have been specifically excluded from coverage of the contract negotiated by the county-wide unit of which the non-professionals are a part.

Local 348, Portage County Employees, intervenes in the instant proceeding to voice its desire to appear on both ballots in the event elections are directed. Neither the Petitioner nor the Municipal Employer objected to the Intervenor's request.

While the Intervenor contends that it presently certified representation for non-professional employees from the Department of Social Services, it should be noted that on September 26, 1963, following an election conducted by it, the Commission certified the Intervenor as the exclusive collective bargaining representative for "all employees of Portage County, excluding elected officials, supervisors and law enforcement personnel". However, despite said certification in the past, the Intervenor and the Employer have entered into collective bargaining agreements covering the wages and hours of "all employees of the Courthouse and County Home except elected officials, County Home Superintendent, Supervisor of Nurses, Public Health Nurse, Registered Nurses, Licensed Practical Nurses, Farm Agent, Home Agent, 4-H Agent, Law Enforcement Personnel and Welfare Department Employees".

Therefore, it is apparent that there has been abandonment by the Intervenor of its representative status with respect to any of the employees in the department involved herein.^{2/} Therefore, we conclude that none of the employees in the Department of Social Services are being presently represented by any organization, nor are they included in any existing collective bargaining unit or units.

Section 111.70(4)(d)(2.a.) of the MERA provides that:

"2. a. The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit. Before making its determination, the commission may provide an opportunity for the employees concerned to determine, by secret ballot, whether or not they desire to be established as a separate collective bargaining unit. The commission shall not decide, however, that any unit is appropriate if the unit includes both professional employees and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit."

Given the above facts, the Commission considers a question of representation of non-professional Social Services employees to be present and regards the proposed unit of all regular employees, conditionally excluding the social workers and excluding the Director and supervisors, to be appropriate. Furthermore, the Commission is satisfied that a question of representation of the social workers exists and that they, as professional employees, will be afforded the opportunity to determine whether they desire to be included in the non-professional unit.

The representation ballots cast by the social workers will be challenged by the Commission agent who conducts the balloting. The sequence of counting the ballots will be as follows:

- 1) The ballots cast by the professional social workers as to their desire to be included in the non-professional unit will be tallied first.
- 2) If a majority of the eligible professional social workers do not vote in favor of inclusion in the non-professional unit, the challenged representation ballots cast by the professional social workers will be opened and counted separately, as will the ballots cast by the non-professional employees.
- 3) If the professional social workers vote in favor of being included in the non-professional unit, the Commission

^{2/} While the collective bargaining agreement between the Intervenor and the Municipal Employer excludes employees in the "Welfare Department" the proper name of said Department is the "Department of Social Services".

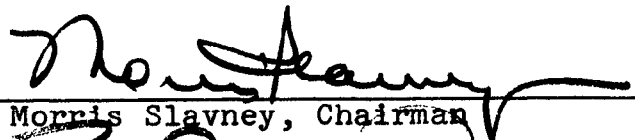
agent shall open the challenged ballots and deposit the ballots in the ballot box with the ballots of the non-professional employees in such a manner to preserve the secrecy of the ballots, and thereupon count the combined ballots.

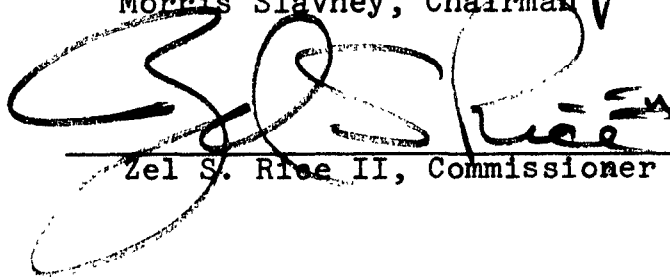
In the event that the professional social workers vote for inclusion in the non-professional unit, the appropriate bargaining unit shall consist of all regular employees of the Portage County Social Services Department including professional social workers, but excluding the Director and supervisors.^{3/} Should the professional social workers reject inclusion in the non-professional unit, the appropriate units shall consist of (1) all regular employees of the Portage County Social Services Department, excluding the Director, professional social workers and supervisors, and (2) all regular professional social workers in the employ of Portage County Social Services Department, excluding the Director, supervisors and all other employees of said Department.

Dated at Madison, Wisconsin, this 26th day of September, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

^{3/} Social Work Supervisor I's and Administrative Assistant I.