

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
COMMUNICATIONS WORKERS OF AMERICA, :
AFL-CIO : Case II
Involving Certain Employes of : No. 15893 ME-824
CITY OF EDGERTON : Decision No. 11340

Appearances:

Mr. James Orr, Representative, appeared on behalf of the
Petitioner.
Mr. Isaac P. Spike, Mayor, appeared on behalf of the Municipal
Employer.
Mr. Leonard Schoonover, Secretary-Treasurer, General Drivers,
Dairy Employees and Helpers Local 579, appeared on behalf
of the Intervenor.

DIRECTION OF ELECTION

Communications Workers of America, AFL-CIO, by its Representative, James Orr, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employes of the City of Edgerton; and hearing on such petition having been conducted on September 12, 1972, at Edgerton, Wisconsin, by John T. Coughlin, Hearing Officer; and during the course of said hearing General Drivers, Dairy Employees and Helpers Local 579, affiliated International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America having been permitted to intervene in the matter; and the Commission having considered the evidence and the positions of the parties, and being satisfied that a question has arisen concerning representation for certain employes of the City of Edgerton;

NOW, THEREFORE, it is

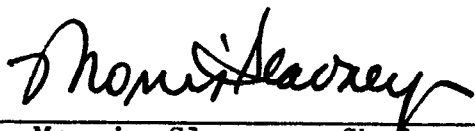
DIRECTED

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time and regular part-time employes of the City of Edgerton in its Water, Sewer, Street, Cemetery, Park and Library Departments, excluding supervisory, confidential and managerial employes, who were employed by the Municipal Employer on October 4, 1972, unless such employes quit their employment or are terminated for cause prior to the date of the election, for the purpose of determining whether a majority of such employes desire to be represented by Communications Workers of America, AFL-CIO, or by General Drivers, Dairy

Employees and Helpers Local 579, affiliated International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or by neither of said organizations, for the purpose of collective bargaining with the City of Edgerton on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 4th day of October, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

There are no issues present concerning the scope of the unit in that the agreed upon unit includes all the departments of the Municipal Employer with the exception of the Police and Fire Departments. The issues before the Commission relate to the eligibility of certain employees who work in the Library, Recreation, Park and Street Departments to participate in the election.

Library Trainees

An issue arose as to the eligibility of three student trainees employed in the library during non-school hours. They work approximately 28 hours a month under the direction of the Head Librarian.^{1/} The Municipal Employer's position contends that the Library Trainees should not be allowed to vote in the representation election, whereas the petitioning Union contends that they should be allowed to vote. The intervening Union did not take any position concerning this issue. The individuals at issue have been working in the library for approximately two to three weeks. However, said trainees replaced individuals who had acted as trainees in the library for approximately one and one-half years.

The Commission has previously held that students will not be disenfranchised when they are old enough to work and to in fact work a substantial number of hours.^{2/} Therefore, we conclude that the student trainees working in the library are eligible to vote.

Recreation Department Youth Chaperones

An issue arose as to the eligibility of two full-time college students who work approximately four hours per week for the Recreation Department. Their job function is to act as chaperones over activities held in the Municipal Employer's youth center. The aforementioned students have been employed as chaperones for approximately three weeks as of the time of the hearing, and they are paid \$25 per week. The Municipal Employer would exclude said employees from the eligibles. The petitioning Union would permit said employees to vote, whereas the intervening Union contends that these people should not be allowed to vote.

The Commission has previously stated its policy of not requiring part-time employees to work a specified number of hours in order to be included among those eligible to participate in an election.^{3/}

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- 1/ The parties stipulated that the Head Librarian should not be allowed to vote in that she acts in a supervisory capacity. The Commission, after reviewing the record pertaining to said Head Librarian, is in agreement with the aforementioned stipulation.
 - 2/ Sentry Foods, Dec. No. 4210, 3/56; Svoboda Church Furniture Co., Dec. No. 4352, 8/56; Holy Family Hospital, Dec. No. 7119, 4/65; Oconomowoc Joint School District No. 3, Dec. No. 10388, 6/71.
 - 3/ Casey Lincoln & Mercury, Dec. No. 4538, 5/57; Luther Hospital Association, Dec. No. 4582, 8/57; Phillips Bros., Inc., Dec. No. 4606, 9/57; Food Queen Stores, Dec. No. 4741, 4/58; St. Anthony's Hospital, Dec. No. 4762, 7/58; Lumberman's Service, Dec. No. 5510, 6/60; Commerce Building, Dec. No. 5851, 10/61; Wausau Furniture Company, Dec. No. 5949, 3/62; Graff Quality Meats, Dec. No. 6123, 10/62; Faustel, Inc., Dec. No. 6140, 10/62; Portage Stop N'Shop, Dec. No. 6803, 7/64; West Bend Joint School District No. 1, Dec. No. 10296, 6/71.

The fact that the program involving the utilization of chaperones at the youth center is experimental in nature does not preclude said chaperones from being eligible to vote. Eligibility to vote does not insure continued employment if an experimental program fails. Therefore, we conclude that the individuals employed as chaperones do have a definite interest in the wages, hours and working conditions governing their employment and are eligible to vote in the election.

Park Department Employees

Testimony revealed that the Park Department employs ten individuals during the summer season, which season extends from the first week in June until the day after Labor Day. Two of the aforementioned employees serve as "ticket takers", whereas the other aides are employed as lifeguards. Five of the ten are of college age and the other five are seniors in high school. All of the aforementioned individuals work a forty hour week during the summer and they are under the direction of the manager of the pool.^{4/} The record reveals that the City makes an effort to reemploy the lifeguards and "ticket takers" from one summer to the next and that if an individual returns for a second summer of employment, he is given an increase in pay because of his previous summer's experience. During the past summer four of the ten employees at issue had been employed by the Municipal Employer the previous summer.

The Commission has previously held that seasonal employees who have a reasonable expectation of returning to their employment the following season are eligible to vote in a representation election as regular part-time employees.^{5/} Testimony revealed that only four of the ten individuals employed by the Municipal Employer during the past summer were so employed during the previous summer. In addition, there was no evidence adduced at the hearing which demonstrated that any of the individuals employed during the past summer intended to apply for reemployment next summer. Therefore, we conclude that the individuals employed last summer do not have a reasonable expectation for reemployment and are not eligible to vote.

Street Department Employees

Testimony revealed that the Municipal Employer has two employees who work for the Street Department in conjunction with the Emergency Employment Act, that said employees receive the same wages and fringe benefits as do full-time employees and that they work an average of 45 hours per week. The Municipal Employer pays the employees, and it in turn is reimbursed by the County for all expenses which are incurred by it in conjunction with the aforementioned individuals' employment. These individuals perform the same work as do other Street Department employees. The Federal program under which the aforesaid employees are covered has expired but is currently being renewed on a month-to-month basis with hopes that another year's funding will be made available. Both of the Unions in the instant case are in favor of the employees at issue being allowed to vote. The Municipal Employer has taken no position in the matter.

^{4/} The parties stipulated that the manager of the pool should not be eligible to vote in that he has the authority to effectively hire, fire, discipline and assign work. The Commission, after reviewing the record, agrees with the aforementioned stipulation.

^{5/} Stevens Point Board of Education, Dec. No. 7713, 8/66; Oconomowoc Jt. Sch. District No. 3, Dec. No. 10388, 6/71.

The Commission concludes that the two employes at issue be allowed to vote in a representation election for the following reasons:

1. The wages, hours and conditions of employment of the employes at issue are identical to that of the other Street Department personnel.

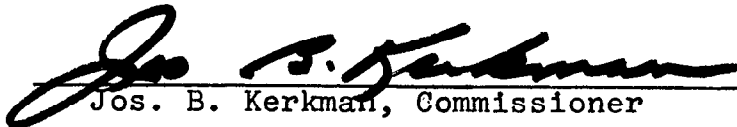
2. The conditions of employment of the aforesaid employes are controlled by the Municipal Employer in that it has the power to hire and fire them and also to assign their work.6/

3. The fact that the funds for the wages of such employes are from sources outside the City does not affect their employe status.7/

Dated at Madison, Wisconsin, this 4th day of October, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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6/ See Common School District Joint No. 1, City of Tomah, et al., Dec. No. 8209-C, 3/72.

7/ Milwaukee Bd. of School Directors (9000) 4/69.