

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF WAUKESHA (FIRE DEPARTMENT)

ORDER CLARIFYING BARGAINING UNIT

ORDER

Given under our hands and seal at the
City of Madison, Wisconsin, this 6th
day of November, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slattery, Chairman

Zel S. Rice II, Commissioner

Jos. B. Kerkman Commissioner

CITY OF WAUKESHA (FIRE DEPARTMENT)
XIV Decision No. 11342

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The instant proceeding was initiated by a petition filed January 31, 1972 by Local #407, International Association of Fire Fighters for clarification of the bargaining unit of employees in the City of Waukesha Fire Department. Specifically the Petitioner seeks to expand the unit to include Assistant Chiefs, Captains, Lieutenants and Inspection Bureau personnel. The City of Waukesha on February 23, 1972 filed a motion to dismiss this petition on the basis that it was untimely filed and that the Commission had not at the time established rules 1/ and procedures as required under 111.70(3)6(d).

BACKGROUND

The City of Waukesha Fire Department consists of fifteen officers and forty-eight fire fighters stationed at two separate fire stations. In addition to the Fire Chief, the officer group consists of three Assistant Chiefs, three Captains, seven Lieutenants, (including a Fire Inspector-Lieutenant), and a Fire Inspector. The forty-eight fire fighters in the department are, and have been, represented for several years by the Petitioner. The officers in the department are excluded from the bargaining unit by Article I of the collective bargaining agreement which covers the period January 1, 1971 through December 31, 1972.

The officer group, represented by a member of each rank, has historically met with the Personnel Committee of the City Council to discuss wage increases and other matters. Such discussions prior to March 4, 1972 resulted in an understanding, which was submitted to the City Council and confirmed in the form of a resolution dated March 4, 1972, to cover the period January 1, 1971 through December 31, 1972. It was understood that the terms and conditions of employment for the officers would be, except as altered by the resolution, those contained in Local #407's agreement with the City.

The testimony and briefs of the parties disclose no significant disagreement as to the main duties of the classifications involved. Briefly the responsibilities are: At Fire Station No. 1 each Assistant Chief serves as commanding officer of the station for one of the three shifts. Normally, on two shifts two Lieutenants are on duty, while on the other shift a Captain and a Lieutenant are on duty. When an Assistant Chief is on vacation or otherwise absent the command of the station passes to the next ranking officer. At Station No. 2 the commanding officer is a Captain on two shifts and a Lieutenant on the third. Responsibility for command rests with the highest ranking officer at a station - whether Assistant Chief, Captain or Lieutenant.

1/ Section 111.70(3)6(d) Wis. Stats. deals with units involving law enforcement or firefighting supervisors to the extent that the Commission shall by rule establish procedures for certification of such units of supervisors. The question of such supervisory unit determination is not directly involved in the present matter.

The commanding officer is in charge of his company and determines which and how many vehicles are to respond to a fire, the proper manner to attack the fire, whether additional help is needed, and institutes any area safety measures considered necessary.

The commanding officer at each station is also responsible for operation and maintenance during his shift. He assigns men to vehicles and job duties, administers training programs, purchases supplies, maintains numerous reports including fire and arson reports, the daily journal of all activities, supply requisitions, and evaluation reports on each fire fighter under his supervision. He is expected to maintain discipline and has the authority to suspend subordinates.

The three Assistant Chiefs are assigned additional responsibility in training preparation, maintenance and personnel activities that relate to both stations, and occasional visitations are made to Station No. 2 in this auxiliary capacity.

One Lieutenant and a Fire Inspector make up the Bureau of Fire Inspection and these officers conduct fire inspections to determine compliance with regulations, work with other inspectors and personnel in professional capacities employed by the City. Speaking assignments, safety demonstrations, and assisting in training of industrial fire brigades in the community are recurring duties. These two individuals work an eight hour day and only rarely are used as fire fighters in emergencies. Their initial training is the same as that of fire fighters.

The scheduling of the personnel in the officer group is such that any one individual officer could be away from work on vacation for up to 57 consecutive work days. In such event, or for all shorter periods, the next ranking officer assumes the vacated responsibility.

DISCUSSION

The Respondent's motion to dismiss the petition on the basis that it is untimely filed, in view of the existence of a resolution covering wage increases for the officer group, is not supported by the provisions of the Act or Commission decisions. Contrary to the Respondent's contention, there does not exist a question of representation in the instant case. The question involved is whether certain officers may accrete to the existing fire fighters' unit as a result of a statutory amendment.

The Commission has previously ruled on a similar issue in City of Wauwatosa (Fire Department). 2/ The Municipal Employment Relations Act, which became effective November 11, 1971, specifically in Section 111.70(1)(o)2, sets forth that in a municipality with more than one fire station "the term supervisor shall include all officers above the rank of the highest ranking officer at each single station."

It follows, therefore, that statutorily, at the least, all officers of the rank of Captain or below in the Waukesha City Fire Department are not supervisors within the meaning of Section 111.70 (1)(o)2 of the Act and therefore they are included in the bargaining unit represented by Local #407, International Association of Fire Fighters.

2/ Decision No. 10956-A (6/72)