

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

JEAN WUTHRICH

Involving Certain Employees of

GREEN COUNTY

Case XXI
No. 16099 ME-846
Decision No. 11466

DIRECTION OF ELECTION

Petition having been filed with the Wisconsin Employment Relations Commission by Jean Wuthrich, an employee of Green County, requesting that an election to determine a bargaining representative be conducted pursuant to Section 111.70, Wisconsin Statutes, among certain employees of Green County Courthouse; and General Drivers, Dairy Employees and Helpers Local Union No. 579, International Brotherhood of Teamsters, Chauffeurs and Warehousemen of North America having been permitted to intervene on the basis of their status as the present bargaining representative of said employees; and a hearing having been held in the matter on November 14, 1972, at Monroe, Wisconsin; and the Commission being satisfied that said petition was timely filed and being satisfied that a question concerning representation exists among the employees involved;

NOW, THEREFORE, it is

DIRECTED

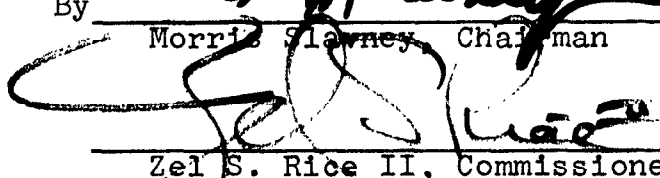
That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in a collective bargaining unit consisting of all employees of the Green County Courthouse, excluding confidential, professional and supervisory employees, who were employed on November 14, 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 continued to be represented by General Drivers, Dairy Employees and Helpers Local Union No. 579, International Brotherhood of Teamsters, Chauffeurs and Warehousemen of North America for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and working conditions.

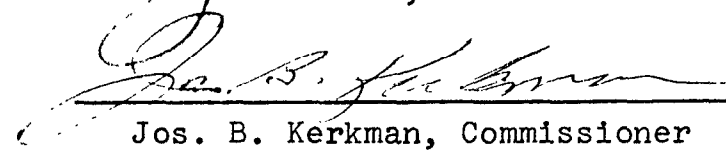
Given under our hands and seal at the
City of Madison, Wisconsin, this 12th
day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

No. 11466

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Petition in this matter which is, in effect, an attempt to decertify the Intervenor Union was filed by the Petitioner, an employee of the Municipal Employer, on October 12, 1972. On such date there existed a collective bargaining agreement between the Municipal Employer and the Intervenor which provided in part as follows:

"THIS AGREEMENT shall go into effect July 1, 1972 and continue until December 31, 1972, and shall be considered automatically renewed from year to year thereafter, unless at least sixty (60) days prior to the end of the effective period, either party shall serve written notice upon the other that it desires to re-negotiate, revise or modify this Agreement. In the event such notice is served, the parties shall operate temporarily under the terms and provisions of this Contract until a new contract is entered into, at which time, the new contract shall be retroactive as of the last date of termination of this Agreement. Both parties shall have the right to notify the other that they desire to negotiate the next year's contract commencing September 1."

The Intervenor, by letter dated August 24, 1972, notified the Municipal Employer of its desire to commence negotiations for a 1973 collective bargaining agreement. Although the parties, at the time of the hearing herein, had not yet commenced negotiations, a meeting was scheduled for the week of November 14, 1972.

There is no dispute in the instant case over the appropriate collective bargaining unit. Both parties stipulated that if the Commission directs an election, the appropriate collective bargaining unit should consist of all employees of the Green County Courthouse, excluding confidential, professional and supervisory employees. It is the Intervenor's position, however, that the instant petition filed on October 12, 1972, was not timely filed. It is argued that the date for reopening the current contract is September 1 and therefore the period for timely filing the instant petition, pursuant to the rule established by the Commission in Wauwatosa Board of Education, (8300-A) was within the sixty-day period prior to September 1, 1971.

It is the Petitioner's position that the reopening date is not September 1 as argued by the Intervenor but rather sixty days prior to December 31, which is the termination date of the collective bargaining agreement. Therefore, the Petitioner argues the timely period for filing petitions in the matter would be within sixty days prior to November 1, 1972.

The issue, then, to be determined is whether the reopening date in the current collective bargaining agreement is September 1 or November 1, 1972. The Commission in Wauwatosa Board of Education held that, "where there presently exists a valid collective bargaining agreement which contains provisions for reopening same for the purposes of negotiating terms and conditions of a new agreement, the Commission will only process petitions seeking an election among the employees covered by said agreement if said petitions are filed within a sixty (60) day period preceding the date established for the reopening of the agreement."

The Commission cannot conclude, as argued by the Union, that the date established for the reopening of the agreement is September 1. The parties by the agreement provide that both have a right to notify the other that they desire to negotiate the next year's contract commencing September 1. The parties, however, are not required to give said notice by September 1, but rather have until November 1 to notify the other that it desires to renegotiate, revise or modify the agreement. Clearly September 1 is not a deadline. What's more, it is not clear whether by said language the parties are precluded from reopening prior to September 1. It is noted that in the instant case the reopening letter sent to the Municipal Employer was sent on August 24, 1972.

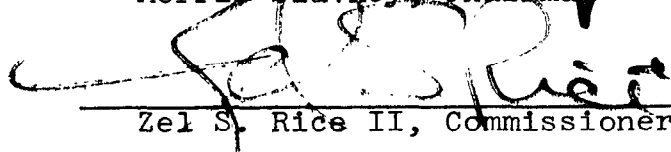
In conclusion since the parties have until November 1 to notify the other of its intention to renegotiate, revise or modify the agreement, the Commission concludes, for the purpose of determining a timely period for filing a petition involving employees covered by the agreement involved, that November 1 is the reopening date under the terms of the agreement in the instant case, and therefore, the petition is timely filed.

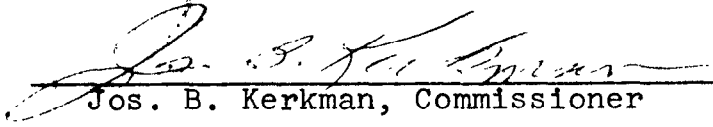
Dated at Madison, Wisconsin, this 12th day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner