

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO
Involving Certain Employees of
RICHLAND COUNTY (SENIOR CITIZENS HOME
& FARM)

Case V
No. 16075 ME-844
Decision No. 11484

Appearances:

Mr. Walter J. Klopp, District Representative, WCCME, AFSCME,
AFL-CIO, appearing on behalf of the Petitioner.
Mr. Bernard Ruse, Superintendent, Richland County Senior
Citizens Home & Farm, appearing on behalf of the
Municipal Employer.

DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the Richland County (Senior Citizens Home & Farm), and hearing on such petition having been conducted on November 2, 1972, at Richland Center, Wisconsin, by Kay Hutchison, Hearing Officer, and the Commission having considered the evidence and positions of the parties, and being satisfied that a question has arisen concerning representation for certain employees of Richland County (Senior Citizens Home & Farm);

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 employees of Richland County (Senior Citizens Home & Farm), but excluding the Superintendent, Department Heads, Farm Manager, relatives of agents of the Municipal Employer, clerical, supervisory, professional, casual, and all other employees of the County, who were employed on November 2, 1972, except such employees who prior to the election quit their employment or are discharged for cause for the purpose of determining whether a majority of such employees desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for

No. 11484

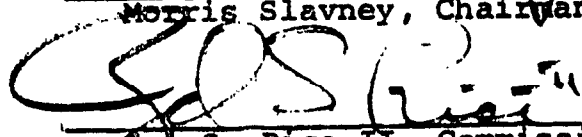
the purposes of collective bargaining with Richland County
(Senior Citizens Home & Farm) on the questions of wages, hours
and conditions of employment.

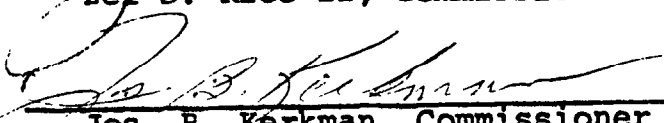
Given under our hands and seal at the
City of Madison, Wisconsin, this 20th
day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

During the course of the hearing, the parties stipulated to the exclusion of certain positions from the appropriate collective bargaining unit. All Registered Nurses and the certified dietician were agreed upon as being professional employees within the meaning of Section 111.70(i)(1) of the Wisconsin Statutes. The parties stipulated that William Keller, employed in the Disposal Plant, is an independent contractor and thereby excluded from the unit. The General Services Supervisor position occupied by Ruby White, was mutually agreed upon as exempt from the bargaining unit as being a supervisory position.

An issue arose as to whether three individuals should be classified as casual employees and thereby excluded from the unit. One of the aforesaid positions is occupied by Paul Cockroft, a Relief Nurse Assistant. Cockroft works approximately eight to sixteen hours every week. In differentiating casual from part-time employees, the Commission considers the regularity of employment to be controlling rather than the number of hours worked. 1/ Although Cockroft's hours vary from week to week, he works regularly on a part-time basis. We conclude that Cockroft is not a casual employee and is included in the appropriate bargaining unit.

Goldie McMillin and Barbara Shannon are employed as a Relief Food Service Worker and Relief Licensed Practical Nurse respectively. Both are employed on a call-in basis. Apparently, neither work on a regularly scheduled shift. McMillin and Shannon are employed sporadically according to the staffing requirements of the Municipal Employer. They may not work for unspecified periods of several days or weeks at a time. We find that the Relief Food Service Worker position and Relief Licensed Practical Nurse position occupied by McMillin and Shannon respectively are casual in nature and thereby properly excluded from the collective bargaining unit. 2/

The Municipal Employer, in contrast to the Union position, contends that the positions of General Services Supervisor currently held by Alta Thompson and Fern Bingham are supervisory. It has been previously noted that the parties stipulated to the supervisory status of the General Services Supervisor position occupied by Ruby White.

Thompson, Bingham and White alternate the duties of General Services Supervisor and receptionist. Either Thompson or Bingham fills in as General Services Supervisor on White's day off. On any given day, two of the three aforementioned employees are on duty. One of the two functions as a receptionist whereas the other serves as the General Services Supervisor.

The General Services Supervisor oversees eight persons employed in the kitchen and two full-time employees and one part-time employee working in the cleaning service. In addition to supervising the kitchen and cleaning function, the duties of General

1/ Florence County Jt. School Dist. No. 1 (6677) 3/64; Janesville Board of Education (6678) 3/64.

2/ City of Wausau (6276) 3/63.

Services Supervisor include ordering supplies, with the approval of the Superintendent; recording purchases; and scheduling employees. The General Services Supervisor spends 50% of her working time supervising employees. General Services Supervisors are paid at a higher rate of pay than are other employees in the proposed bargaining unit.

In light of Thompson and Bingham's periodic assumption of the duties of the General Services Supervisor and their additional clerical responsibilities as receptionists, we find all General Services Supervisors currently in the employ of the Municipal Employer to be appropriately excluded from the unit.

A question regarding the supervisory status of Orville Sprecher, Supervisor of Maintenance, arose during the course of the hearing. Sprecher and one additional person perform maintenance work for the Municipal Employer. Although Sprecher is responsible for assigning tasks to himself and the other maintenance employee, he spends the majority of his working time actually performing unit work. Non-routine maintenance is performed at the direction of the Superintendent. The Commission holds Orville Sprecher, Maintenance Supervisor, to be a working foreman and thereby properly included in the proposed bargaining unit. 3/

The remaining issue to be determined by the Commission concerns the inclusion or exclusion in the bargaining unit of relatives of agents of the Municipal Employer. The Commission has found a variety of family relationships in public and private employment to void inclusion of certain persons in the bargaining unit. 4/ During the hearing it was ascertained that the wife of the Superintendent is employed in Activity Therapy and his daughter is employed in the Food Service unit. We hold the spouse and child of an agent of the Municipal Employer to be properly excluded from the collective bargaining unit. 5/ Therefore, we find Lena Ruse and Kathy Bingham ineligible to participate in the election.

The exclusion of the Farm Manager, Donald Bingham, was stipulated to by the parties. Furthermore, Fern, Donald Bingham's wife, who is employed as a General Services Supervisor, was excluded from the unit due to her supervisory status. The Bingham's son, Ronald is employed as a herdsman by the Municipal Employer. In that Donald Bingham is solely responsible for the management of the farm operation, and is thereby an agent of the Municipal Employer, we find Ronald Bingham ineligible to participate in the election.

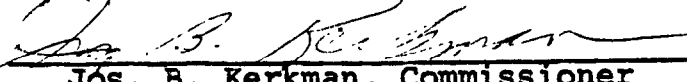
Dated at Madison, Wisconsin, this 20th day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney, Chairman


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3/ St. Joseph's Hospital (7223) 7/65.

4/ Bartosh Cleaners (6004) 6/62, Billy Moy's One World Inn (11262) 8/72.

5/ Tradehome Shoe Stores, Inc. (3783) 8/54.