

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
UNITED NURSING HOME & HOSPITAL
EMPLOYEES' FEDERATION, LOCAL 222
Involving Certain Employees of
HOLY FAMILY HOSPITAL

Case IX
No. 16085 E-2760
Decision No. ~~12088~~
11535-B

Appearances:

Mr. Roger Jacobson, Business Manager, appearing on behalf of
the Petitioner.
Porter, Purtell, Purcell, Wilmot & Burroughs, S.C., Attorneys
at Law, by Mr. Dennis J. Purtell, appearing on behalf
of the Employer.
Mr. Gary Robinson, Director of Field Services, appearing on
behalf of the Intervenor Service & Hospital Employees'
International Union, Local 150, AFL-CIO.

ORDER DISMISSING OBJECTIONS TO CONDUCT OF ELECTION

United Nursing Home & Hospital Employees' Federation, Local 222, having filed timely objections to the conduct of an election directed by the Wisconsin Employment Relations Commission on March 2, 1973, in the above entitled matter, wherein said organization contended that the result of said election should be set aside because of certain conduct committed by Local 150, Service & Hospital Employees' International Union, AFL-CIO, and by Holy Family Hospital prior to and during the election; and hearing on said objections having been conducted at Manitowoc, Wisconsin, on April 12, 1973, Kay Hutchison, Hearing Officer, appearing on behalf of the Commission; and the Commission having considered the objections, the evidence and briefs of Counsel, and being fully satisfied that said objections should be dismissed;

NOW, THEREFORE, it is

ORDERED

That the objections filed by United Nursing Home & Hospital Employees' Federation, Local 222, to the conduct of the election involved herein, be, and the same hereby are, dismissed. 1/

Given under our hands and seal at the
City of Madison, Wisconsin, this 14th
day of August, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Shewney, Chairman


Zel S. Rice II, Commissioner

1/ The Commission is today issuing the Certification of Representatives.

11535-B
No. ~~12088~~

MEMORANDUM ACCOMPANYING
ORDER DISMISSING OBJECTIONS TO CONDUCT OF ELECTION

Pursuant to a Direction issued by it, the Wisconsin Employment Relations Commission conducted an election on March 2, 1973, among certain employees of Holy Family Hospital, Manitowoc, Wisconsin, hereinafter referred to as the Employer, to determine whether said employees desired to be represented for the purposes of collective bargaining by Local 222, United Nursing Home & Hospital Employees' Federation, hereinafter referred to as Local 222, or by Local 150, Service & Hospital Employees International Union, AFL-CIO, hereinafter referred to as Local 150, or by neither of said organizations. The results of said election indicated that of the 502 employees eligible to vote, 436 cast ballots, 185 voted in favor of representation by Local 222, 22 voted in favor of representation by Local 150, and 226 voted against any representation. Following the receipt of the tally of ballots, Local 222 filed timely objections to the conduct of the election. The substance of said objections is as follows:

- "1. That on Thursday afternoon, March 1, 1973 the day before the election and on Friday, March 2, 1973 the day of the election at Holy Family Hospital. (sic) Local 150, Service Employees International Union communicated false and misleading statements over two Manitowoc radio stations WCUB and WOMT. (sic) To which Local 222 had no chance to respond. The statements were as follows:

The United States Department of Labor in Chicago announced this week that it is conducting a full scale investigation of Local 222, United Nursing Home & Hospital Employees Federation for failure to file a statement of financial status with the Department of Labor. All labor organizations are required by the Labor-management Reporting and Disclosure Act of 1959 to file yearly financial reports by January 31. Local 222 made no report for 1971 or 1972. Maximum penalty for such an offense is a \$10,000. fine, or one year's imprisonment, or both. Since Local 222 remains a small organization, its dues paying members may bear the full burden of these penalties.

This statement communicated by Local 150 is totally untrue and without basis.

2. Further that in the same statement they went on as follows:

Also the Wisconsin Employment Relations Commission is holding a hearing March 9, 1973 at the Two River's Courthouse on charges that were filed against Local 222 for engaging in coercive activities. The charges state that a business agent for Local 222 illegally told people they would be required to join the union.

Local 222's name appears on the ballot in the union representation election which will be held March 2, 1973 at Holy Family Hospital in Manitowoc.

3. That on February 16, 1973, the Employer circulated a new personnel policy changing fringe benefits (including sick leave, holiday, etc.) in an attempt to coerce employees regarding the union election.

4. That the Employer gave wage increases to employees just prior to the election, up to and including the morning of the election. This is an attempt to coerce employees regarding the union election."

Hearing on the objections was held on April 12, 1973. The parties were permitted to file briefs in the matter, Local 150 and the Employer did so. Prior to the hearing, Local 222 withdrew Objections 3 and 4.

DISCUSSION:

Testimony and evidence were adduced at the hearing concerning certain news broadcasts of local radio stations WCUB and WOMT on March 1 and 2, 1973. However, none of the evidence, in any way, supports the allegations that such broadcasts were aired in the precise manner stated in the objections.

Evidence established that the actual content of such broadcasts is not accurately set out in the objections of Local 222 herein. Whereas the broadcasts of both stations dealt with a pending WERC hearing on objections to the conduct of Local 222 prior to and during an election among employees of Two Rivers Municipal Hospital involving Local 222 and Local 150; the forthcoming March 2, 1973 election among employees of Holy Family involving Local 222 and Local 150; and an alleged investigation of Local 222's filing of financial statements by the US Department of Labor; both stations acknowledged the source of said news items to be a representative of Local 150 and one station's broadcast contained partial although specific denial of the accuracy of such statements by a representative of Local 222.

From a review of the record it is apparent that the news releases issued by Local 150 and broadcast by local radio stations on March 1 and 2, 1973, served as campaign propaganda in the Holy Family Hospital election on March 2, 1973, involving Local 222 and Local 150. This Commission has consistently refrained from passing judgment on campaign propaganda;

"Though we do not condone exaggerations, inaccuracies, partial truths or name-calling, such campaigning may be excused as propaganda if it is not so misleading as to prevent a free choice by the employees." 2/

In light of the broadcasts accurate acknowledgement of source and in one instance, accompanying denial, we are satisfied that the relevant radio broadcasts of March 1 and 2 were "not so misleading as to prevent a free choice by the employees."

2/ Two Rivers Municipal Hospital including Hamilton Memorial Home (11513-E) 4/73, also see City of Green Bay (8098-B) 11/67; London Hat Shop (7023-B) 6/65; North Avenue Laundry (5716-B) 11/61.

Furthermore, no evidence was adduced to substantiate that even one of the five-hundred and two employees eligible to vote in the Holy Family Hospital election on March 2, 1973, actually heard any of said broadcasts on March 1 or 2. Without offer of such proof, the veracity of the broadcasts' content is of no determinative value in the disposition of the objections filed herein. The only grounds for setting aside the election of March 2, 1973 and ordering a new election would be presentation of evidence establishing that the exercise of free choice by the employees participating in the election had been prevented as a result of their exposure to the radio broadcasts.

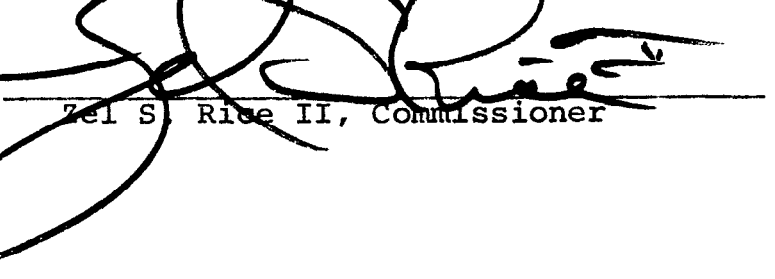
Without evidence of impairment of free choice or even so much as evidence of exposure to the broadcasts, the objections are totally without merit and are, accordingly, dismissed.

Dated at Madison, Wisconsin, this 14th day of August, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner