

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

HOLY FAMILY HOSPITAL

Appearances :

Porter, Purtell, Purcell, Wilmot & Burroughs, S.C., Attorneys
at Law, by Mr. Robert A. Wilmot, appearing on behalf
of the Employer.

Local 222, United Nursing Home & Hospital Employees' Federation having filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted pursuant to Section 111.05 of the Wisconsin Employment Peace Act among certain employees of Holy Family Hospital, at its Manitowoc, Wisconsin, location; and hearing in the matter having been conducted at Manitowoc, Wisconsin, on November 9, 1972, before Kay Hutchison, Hearing Officer; and during the course of the hearing, Local 150, Service & Hospital Employees International Union, AFL-CIO, having moved to intervene in the proceeding; and the Commission being satisfied that Local 150, Service & Hospital Employees International Union, AFL-CIO, on the basis of its claim that it represents certain of the employees involved, should be permitted to intervene in the matter, and further being satisfied that a question of representation exists among the employees involved;

DIRECTED

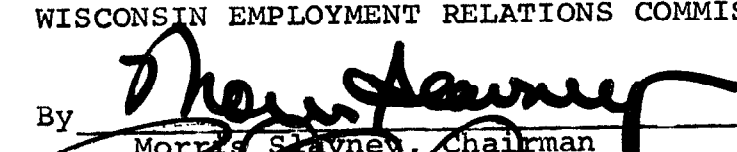
That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time and regular part-time employees of Holy Family Hospital at its Manitowoc, Wisconsin, location, excluding confidential, managerial, supervisory and casual employees and persons of a religious order, who were employed by the Employer on January 12, 1973, 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 represented by Local 222, United Nursing Home & Hospital Employees' Federation, or by Local 150, Service & Hospital Employees International Union, AFL-CIO, or by neither of said organizations, for the purposes

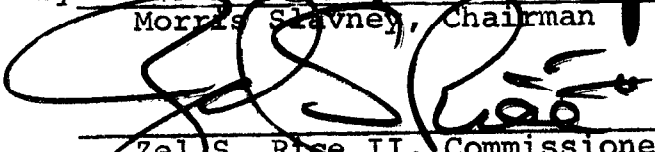
of collective bargaining with the Employer on questions of wages,
hours and conditions of employment.

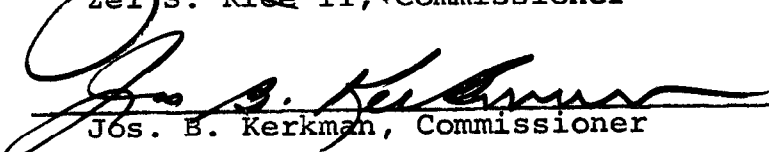
Given under our hands and seal at the
City of Madison, Wisconsin, this 15th
day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rise II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

At the onset of the hearing, the Hearing Officer denied a motion to intervene made by Local 150, Service & Hospital Employees International Union, AFL-CIO. However, whereas Local 150 claims to represent employees in the alleged appropriate collective bargaining unit, the Commission hereby overrules the ruling of the Hearing Officer.

During the course of the hearing, the Employer moved for dismissal of the petition for lack of a showing of interest. At that time and subsequently in its brief, Counsel for the Employer argued that the Commission should require a showing of interest by the Petitioner and the Intervenor in the instant proceeding.

The Commission has maintained its policy of requiring a showing of interest only where there presently exists a recognized or certified bargaining representative. 1/ In that a bargaining representative is not currently recognized or certified, the Commission does not require a showing of interest to be made herein.

As issue arose during the course of the hearing concerning the employees specifically excluded from the collective bargaining unit. The Employer takes the position that the statement of exclusion should not contain reference to "managerial employees" or "persons of a religious order".

The Wisconsin Employment Peace Act does not specifically exclude managerial employees and persons of a religious order from the definition of the term "employee". Supervisors are excluded from the Act's coverage because such positions are allied with management. It follows that managerial employees are likewise excluded. Conceivably, managerial employees may not possess supervisory authority over any employees. The industrial relations' concept of "line and staff" relationships acknowledges this possibility. Staff personnel may determine management policy without having any direct supervisory authority over line employees. Therefore, managerial employees, as primary agents of the Employer cannot be deemed "employees" within the meaning of the Act.

Testimony, adduced during the course of the hearing, indicated that there are between fifteen and twenty persons of a religious order employed by the Employer at its Manitowoc, Wisconsin location.

We hold the relationship of the religious order and its members to the management of the non-profit Employer to potentially conflict with the interests of the other employees. Members of the religious order serve on the Employer's Board of Directors and participate in the selection of administrators. In light of the commitment existing between the religious order and its members, and the role of the religious order in the Employer's operation, we find it appropriate to exclude such persons from the collective bargaining unit.

1/ Wauwatosa Board of Education (8300-A) 2/68; aff. Dane Co. Cir. Ct. 8/68; Dodge County (Clearview Home) (8734) 10/68; Two Rivers Municipal; Evangelical Deaconess Hospital (9671 & 9672) 5/70; Holy Family Hospital (9682 - 9687) 5/70.

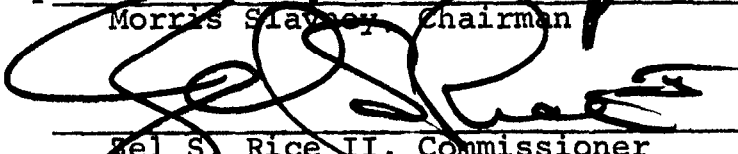
The Employer did not furnish a list of employees occupying the positions included in the collective bargaining unit. We hereby direct the Employer to furnish the Commission with such a list within ten (10) days hereof. Such list should include the name and position of each individual employee. In addition, the Employer shall submit the numerical or name designation of the first floor classroom to be used for the conduct of the election. At the time of submission of said list to the Commission, copies of the list shall be sent by the Employer to the Petitioner and to the Intervenor. The Petitioner and/or Intervenor shall, within ten (10) days of receipt of said list, inform the Commission of any challenges. In the event of such notification by the Petitioner or Intervenor, the Commission shall determine whether additional hearing is needed to determine the eligibles prior to the election.

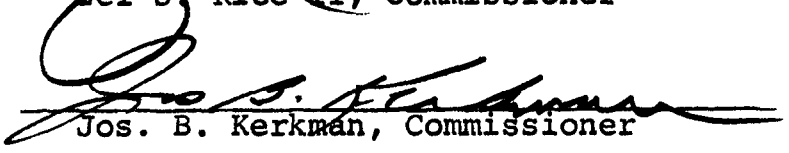
Dated at Madison, Wisconsin, this 15th day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Del S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner