

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XIX
No. 16473 ME-876
Decision No. 11601-A

Mr. William Sandoval, District Representative, appearing
on behalf of the Union.

~~Doc. B. Kerkman, Commissioner~~

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

In its petition, the City of Fond du Lac, hereinafter referred to as the Municipal Employer, requested the Commission to determine whether the positions of Personnel Secretary II and Personnel Secretary I are appropriately included in or excluded from the certified collective bargaining unit 1/ consisting of "all regular full-time and regular part-time employees of the City of Fond du Lac employed in the Public Works Department, Health Department and City Hall, excluding elected and appointed officials, department heads, professional employees, confidential employees and supervisors."

BACKGROUND:

The Personnel Department is staffed by the Personnel Director and two part-time clerical employees, namely a Personnel Secretary II and a Personnel Secretary I. The Personnel Secretaries work in the same, large office in which the Secretary to the Director of Public Works works. The Personnel Director, Director of Public Works and Engineering staff have smaller offices accessible only through the larger office in which the three aforementioned clerical employees are located. All telephone calls received by the administrative staff are relayed through the clerical section. Any of the clerical employees may handle calls directed to the Personnel Director, Director of Public Works or Engineering staff.

The Municipal Employer, contrary to the Union, asserts that the positions of Personnel Secretary II and Personnel Secretary I are confidential and thereby, appropriately excluded from the collective bargaining unit.

Personnel Secretary II

The incumbent Personnel Secretary II, Theresa Wood, has been assigned to the Personnel Department since 1969. Prior to January, 1973, the position was classified as a Clerk-Stenographer I.

A job description for the position was prepared by the Personnel Director approximately early in January, 1973. Although the previous Personnel Director had discussed the possibility of reclassifying the Clerk-Stenographer I position, such action was not initiated until subsequent to the hire of the present Personnel Director in November, 1972. The job description states that the duties of the position include:

Characteristic Work of the Class

Nature: Under general supervision to perform, stenographic, typing, bookkeeping, clerical and general office work calling for judgement and specialized knowledge in

1/ Fond du Lac City Employees, Local 1366, AFSCME, AFL-CIO, hereinafter referred to as the Union, was certified as the exclusive collective bargaining representative for said unit on October 20, 1967 by WERC decision No. 8168.

carrying out established procedures or applying contract provisions and general personnel policies; and to perform related work as required.

Examples:

1. Maintains and updates all confidential personnel files.
2. Types contract documents and negotiation notes.
3. Files and records correspondence and legal documents.
4. Performs limited bookkeeping duties relating to employe records and the EEA program.
5. Performs difficult computations used in wage and salary administration.
6. Gives information to department heads and the public.
7. Acts as a receptionist.
8. Prepares reports. 2/

Testimony established that the duties of the Personnel Secretary II include updating personnel records and files; handling correspondence to and from the Personnel Director, including communications relating to grievance disposition and negotiations; preparing relevant wage data for negotiations and answering the telephone. The Personnel Secretary II works for a total of twenty hours per week.

In addition to the aforementioned duties, the incumbent spends 1/12th of her working time filling in for clerical employes on vacation in the City Garage and Purchasing Department. At such times, she functions as an account clerk or Assistant to the Purchasing Agent respectively.

Having considered the incumbent's access to personnel records 3/ and participation in the preparation of financial data and other information for negotiations, 4/ the Commission concludes that the position of Personnel Secretary II is privy to confidential matters relating to personnel and labor relations and is thereby properly excluded from the collective bargaining unit. 5/

Personnel Secretary I

From the onset of her employment in the Personnel Department in 1971, until January, 1973 the incumbent Personnel Secretary I, Christine Liermann, had been classified as a Clerk-Stenographer I.

The job description developed approximately in January, 1973 states the "characteristic work on the class" to be the same as that

2/ Joint Exhibit 1.

3/ See Winnebago County Hospital (6043) 7/62.

4/ See City of Green Bay (8390) 2/68, Chippewa County (8727) 10/68.

5/ See Rusk County (11768) 4/73, Eau Claire County (9198-A) 10/69; Village of Brown Deer (8915) 2/69; Sheboygan Board of Education (10488) 8/71.

of the Personnel Secretary II. The description goes on to cite the following examples of characteristic work assigned to the Personnel Secretary I:

1. Maintains and updates confidential personnel files.
2. Types contract documents, confidential correspondence and reports.
3. Performs difficult computations used in wage and salary administration.
4. Gives information to department heads and the public.
5. Performs typing and clerical services for other departments from time to time. 6/

When working in the Personnel Department, Liermann performs typing duties, makes calculations and takes dictation. The incumbent is employed by the Municipal Employer for thirty hours a week.

The present Personnel Secretary I spends 5/12th's of her working time in departments other than the Personnel Department. As help is needed, Liermann fills in for absent clerical employees in the offices of the City Manager, City Attorney, City Clerk, Treasurer, Inspection and Welfare Departments. Assignment of the Personnel Secretary I to other departments is made by the Personnel Director.

In that the Personnel Secretary II and Personnel Secretary I are part-time employees and frequently work in other departments, it is apparent that both positions basically perform many of the same duties and have access to the same confidential material. The fact that the Personnel Secretary I spends a substantial proportion of her time working in other departments, does not negate her access to and work on confidential matters. We have held that positions privy to confidential matters relating to collective bargaining need not spend a majority of working time performing such duties. 7/

We conclude that the Personnel Secretary I is a confidential employee and is appropriately excluded from the collective bargaining unit.

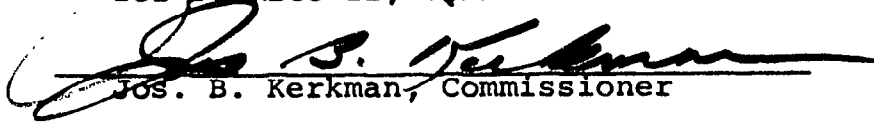
Given under our hands and seal at the City of Madison, Wisconsin, this 23rd day of April, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

6/ Joint Exhibit 2.

7/ Village of Brown Deer (8915) 2/69.