

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case L
No. 15909 ME-826
Decision No. 11685

Mr. Gregory T. Martin, Secretary, appearing on behalf of the
Petitioner.
Mr. Patrick J. Foster, Assistant Corporation Counsel, appearing
on behalf of the Municipal Employer.
Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S.
Williamson, Jr., appearing on behalf of the Intervenor.

Milwaukee County Machinists Group 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 above named Municipal Employer; and a hearing on said petition having been conducted at Milwaukee, Wisconsin, on October 6, 1972, by Commissioner Zel S. Rice II; and District Council 48, AFSCME, AFL-CIO, having been allowed to intervene in the proceeding on the basis of its status as the certified bargaining representative of the employees in the bargaining unit set out in the petition; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employees of the Municipal Employer;

DIRECTED

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

2e) S. Rice II, Commissioner

No. 11685

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Milwaukee County Machinists Group, hereinafter called the Petitioner, filed a petition requesting an election carving them out from an existing overall bargaining unit of Milwaukee County employees. Said petition was accompanied by a sufficient showing of interest in the proposed bargaining unit. The basis of Petitioner's claim is that the employees involved constitute a craft unit entitled to representation as a craft. District Council 48, AFSCME, AFL-CIO, was permitted to intervene on the basis that it currently represents said employees in the overall bargaining unit of County employees.

On May 3, 1965, the Commission directed an election among employees of Milwaukee County and the employees in question were permitted to vote in that election in which the Intervenor was selected as the bargaining representative. 1/ The question of whether or not the employees in question constitute a craft and should be excluded from the overall County bargaining unit was not raised in that proceeding.

At the time of the instant hearing there was in existence a labor agreement between the Intervenor and the Employer covering the calendar years 1971 and 1972. That agreement contained a calendar for negotiations for bargaining for a successor agreement. Negotiations between the Employer and the Intervenor began on April 15, 1972 and continued up to the date of the hearing. Subsequently an agreement was reached between the Employer and the Intervenor covering the calendar years 1973 and 1974.

The Petitioner filed its amended petition for an election with the Commission on August 15, 1972, and the Municipal Employer moved for a dismissal of the petition on the basis that it was not timely. At the hearing the Intervenor joined in the motion to dismiss on the basis that the petition is not timely. Both the Municipal Employer and the Intervenor contend that the employees in question are not craft employees.

Timeliness

There is no question of timeliness if the Petitioner is correct in its assertion that the employees in question are craft employees. The Commission will not refuse to process a petition for lack of timeliness where the Petitioner seeks to establish a separate bargaining unit of craft employees who were improperly included in an overall unit of employees. 2/ Former Section 111.70(3)(d) of the Wisconsin Statutes required separate bargaining units for craft employees and present Section

1/ Milwaukee County, (7135-F) 5/65

2/ City of Milwaukee (Fire Dept.), (7885) 1/67

111.70(4)(d)2a 3/ of the Municipal Employment Relations Act provides for separate bargaining units of craft employees, unless a majority of the craft employees vote for inclusion in an overall unit. If the machinists in question are craft employees they should be found to be in a separate bargaining unit unless a majority vote for inclusion in the overall bargaining unit in accordance with Section 111.70(3)(d) of the Wisconsin Statutes.

Craft Question

The machinists positions in question require a variety of skills and a wide range of knowledge. The machinists in the Building and Grounds Department are required to have a direct knowledge of the standard practices, materials and processes of the trade. They must be able to analyze and work from blueprints, sketches, specifications, diagrams and oral instructions and have skill in the use of machine shop power equipment and hand tools including precision measuring instruments. The job description also requires three years experience as a journeyman machinist after completion of a machinist apprenticeship or eight years as a journeyman machinist.

The same skills and knowledge are required for the machinists positions in the House of Corrections and four years experience after completion of a machinist apprenticeship or nine years as a journeyman machinist are required.

The Hospital Equipment Machinist position requires knowledge of the standard practices, materials and processes of the trade and the ability to remodel, repair and construct hospital and laboratory mechanical equipment. The employee must be able to analyze and work from blueprints, sketches, specifications, diagrams and oral instructions and they must be skilled in the use of machine shop power equipment and hand tools, including precision measuring instruments. They are required to have four years experience as a journeyman machinist after completion of a machinist apprenticeship or nine years experience as a journeyman machinist, with some experience in the repair and maintenance of hospital equipment preferred and some industrial tool room machining experience desired.

The job assignments of the employees are controlled by a schedule prepared by the machinists themselves and approved by their supervisor. They maintain and lubricate 500 motors operated by Milwaukee County and keep them and the various equipment used by the County in operation. They maintain and repair such machinery as the blueprint machine, printing machine, conveyor belt and film machines. They maintain some of the heating units and the pumping equipment including the checking of valves and belts and greasing motors. They also machine threads on valves and make electrical boxes.

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- 3/ Section 111.70(4)(d)2a: "The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit. Before making its determination, the commission may provide an opportunity for the employees concerned to determine, by secret ballot, whether or not they desire to be established as a separate collective bargaining unit. The commission shall not decide, however, that any unit is appropriate if the unit includes both professional employees and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit. The commission shall not decide that any unit is appropriate if the unit includes both craft and noncraft employees unless a majority of the craft employees vote for inclusion in the unit. Any vote taken under this subsection shall be by secret ballot."

A machinist is sometimes identified as one who can make and fit a precision part. It is his responsibility to investigate a problem and find out what is wrong and then repair or rebuild or improve the equipment with which he is concerned. He is also required to do maintenance work in order to prevent problems. The statute defines a craft employe as a skilled journeyman craftsman including his apprentices and helpers. Our Supreme Court in Ray-O-Vac Co., 4/ has defined the term craft to comprehend any group of skilled workers whose functions and common characteristics distinguish them from others so as to give such groups separate problems as to working conditions for which they might desire a separate bargaining agent. In Winnebago County Hospital and Pleasant Acres Home, 5/ this Commission defined craft to include employes who are a distinct and homogeneous group of skilled journeymen craftsmen working as such together with their apprentices and helpers. To be a journeyman craftsman an individual must have a substantial period of apprenticeship or comparable training. The Commission recognizes an experience equivalent as a substitute for the apprenticeship.

The skills and knowledge required by the machinists positions sought to be represented by the Petitioner herein are all somewhat similar and the experience required for each of the positions includes an apprenticeship or an experience equivalent. The training necessary to become the type of machinist required to fill the positions with which we are concerned fall within the ordinary requirements that are associated with an apprenticeship. The Department of Industry, Labor and Human Relations of the State of Wisconsin conducts an apprenticeship program for machinists.

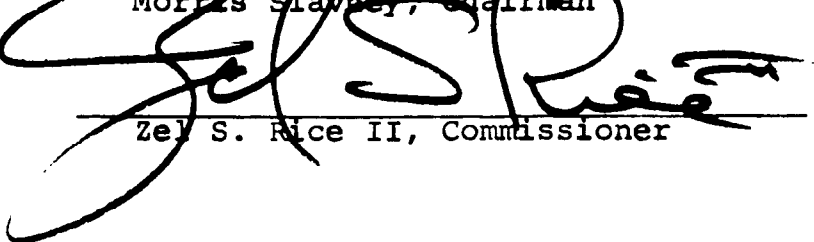
In view of these facts the employes herein are found to be craft employes since their training and duties bring them within the scope of the definition of a craft. Accordingly, the Employer's motion to dismiss joined by the Intervenor is denied and the election requested by the Petitioner herein is hereby ordered. The name of the Intervenor, who claims to represent the employes in question, will be placed on the ballot unless it requests to withdraw prior to the conduct of the election. In the event the Intervenor is selected as the bargaining representative the Commission will upon request, conduct a unit determination election to determine if a majority of the employes desire to be included in the overall unit currently represented by the Intervenor.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawner, Chairman


Zel S. Rice II, Commissioner

4/ 294 Wis. 111

5/ Decision No. 6043, 7/62