

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

WISCONSIN COUNCIL OF COUNTY AND :
MUNICIPAL EMPLOYEES LOCAL 560-A, :
AFSCME, AFL-CIO :

Involving Certain Employees of :

AREA BOARD OF VOCATIONAL, TECHNICAL :
AND ADULT EDUCATION DISTRICT 1 :
Eau Claire, Wisconsin :

Case XXXIV
No. 16739 ME-923
Decision No. 11901

Appearances:

Mr. Guido Cecchini, Representative, appearing on behalf of
the Petitioner.

Losby, Losby, Howard & Riley, Attorneys at Law, by Mr. Stevens L.
Riley, appearing on behalf of the Municipal Employer.

Mr. Kenneth F. Stelzig, Wisconsin Federation of Teachers, appearing
on behalf of the Intervenor.

ORDER OF DISMISSAL

Wisconsin Council of County and Municipal Employees Local 560-A, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted pursuant to Section 111.70 of the Wisconsin Statutes to determine what, if any, representation the Student Center Supervisor desires for the purpose of collective bargaining; and a hearing on said petition having been conducted at Eau Claire, Wisconsin, on Monday, May 21, 1973, by Zel S. Rice II, Commissioner; and during the course of said hearing District 1 Technical Institute Staff and Clerical Federation Local 12398, AFL-CIO, having been permitted to intervene in the matter on its claim that it represents the employee involved; and the Commission having considered the evidence and being satisfied that the position involved does not constitute an appropriate bargaining unit and is, in fact, contained in another bargaining unit;

NOW, THEREFORE, it is

ORDERED

That the petition filed in the instant matter be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin, this 30th
day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

Wisconsin Council of County and Municipal Employees Local 560-A, AFSCME, AFL-CIO, filed a petition for a bargaining unit consisting of the Student Center Supervisor of the Area Board of Vocational, Technical and Adult Education District 1. The Petitioner now represents a bargaining unit consisting of all regular full-time and regular part-time custodial and maintenance employees of the Municipal Employer. A petition was filed by the Intervenor, District 1 Technical Institute Staff and Clerical Federation Local 12398, AFL-CIO, and a Direction ordered directing an election in a bargaining unit consisting of all office, clerical and related employees of the Municipal Employer, and the Petitioner herein was included on the ballot. The election in the latter unit has been conducted, but the results have not yet been certified.^{1/} The question for the Commission to determine is whether the position of Student Center Supervisor should constitute a separate bargaining unit or is included in one of the other two bargaining units. The position of Student Center Supervisor is now occupied by Fred Miller. He opens the Student Center each morning and remains there throughout his working day for approximately nine months of the year. His duties require him to sit at a desk and take care of the equipment at the Student Center, checking it in and out to the various students who desire to use it. He keeps track of who gets the equipment and he sees that it is returned. Miller is also in charge of the student area and has the responsibility of maintaining order and seeing that the equipment and building are not damaged. During the remaining three months of the year consisting of the Christmas vacation and summer vacation periods Miller assists the custodians in scrubbing the floors and performing general custodial work. At the beginning of each of those periods he may spend his time looking after and renovating the Student Center furniture and equipment. Miller is supervised by the Assistant Director of Student Services for the nine months of the year that he is employed in the Student Center. The Assistant Director of Student Services also supervises employees in the bargaining unit consisting of office, clerical and related employees. During the summer months when Miller is primarily performing custodial duties he is under the supervision of the Supervisor of Buildings and Grounds.

It appears that Miller's primary duties are those in connection with his duties at the Student Center. Therefore, those duties should be the main factors to be considered in determining the appropriate bargaining unit in which he should be included. In view of the statutory direction to avoid fragmentation, it is the policy of the Commission to avoid the creation of more bargaining units than is necessary to properly reflect the employees' community of interests. The position of Student Center Supervisor is not so unique that it should constitute a separate bargaining unit by itself. For nine months of the year Miller's duties are closely aligned with those of employees in the unit of office, clerical and related employees and he is under the supervision of a supervisor in charge of employees from that particular bargaining unit. During part of the vacation periods Miller does do custodial work and comes under the supervision of the Director of Buildings and Grounds who supervises the bargaining unit of custodial and maintenance employees.

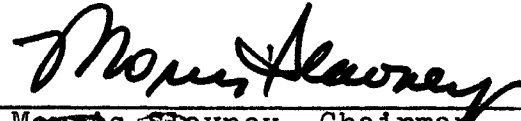
^{1/} Case XXXII.

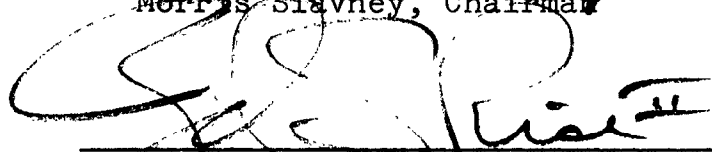
Clearly the major functions and the greater portion of time of the Student Center Supervisor is spent in performing duties that are clerical in nature and closely aligned to that of other employees in the unit consisting of office, clerical and related employees. Since the position is properly included in the bargaining unit consisting of office, clerical and related employees, the Commission will not direct an election in the bargaining unit requested by the Petitioner.2/

Dated at Madison, Wisconsin, this 30th day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

2/ The Student Center Supervisor was not included among the eligibles in the election involved, however, his ballot, if he had been included among the eligibles, would not have affected the results of said election.