

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case VIII  
No. 16520 E-2775  
Decision No. 11952

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MANITOWOC MEMORIAL HOSPITAL  
Manitowoc, Wisconsin

Mr. Gary Robinson, Director of Field Services, Hospital and Service Employees' International Union, Local 150, AFL-CIO, appearing on behalf of the Petitioner.

## DIRECTION OF ELECTIONS

NOW, THEREFORE, it is

DIRECTED

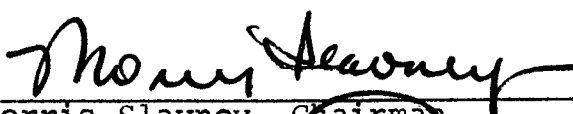
That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this directive among all registered nurses in the employ of Manitowoc Memorial Hospital, excluding supervisors, who were employed by said Employer on June 19, 1973, except such employes as may prior to the elections quit their employment or be discharged for cause for the purpose of determining:

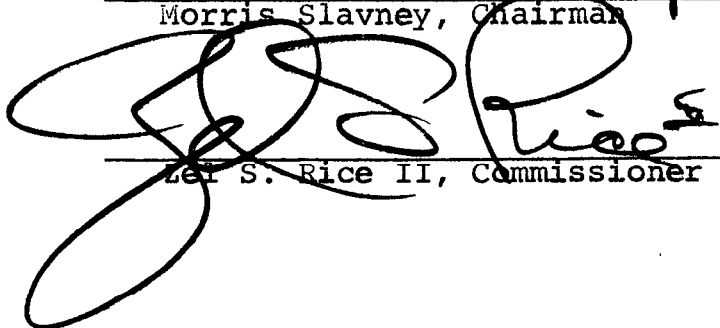
1. Whether a majority of the nurses eligible to vote desire to establish themselves as a separate collective bargaining unit; and
2. Whether a majority of the nurses voting desire to be represented by Hospital and Service Employees' International Union, AFL-CIO, for the purpose of collective bargaining with Manitowoc Memorial Hospital on questions of wages, hours and conditions of employment.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 19th  
day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Ler S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING  
DIRECTION OF ELECTIONS

The instant proceeding was initiated by a petition filed by the Union requesting an election among "all of the registered nurses employed by the employer including those in the anesthesia department but excluding supervisors". At the time of the filing of the petition, the Union and the Employer were parties to a collective bargaining agreement covering employees of the Employer in a collective bargaining unit described as "all regular full-time and regular part-time employees working sixteen (16) hours or more per week, in the employ of the hospital including students, employed as maids, dietary personnel, maintenance personnel, orderlies, surgical technicians, infant nurses, therapy, stockroom and laboratory aides, nurses aides and licensed practical nurses, but excluding supervisors, professional and office personnel, registered nurses, laboratory and X-ray technicians and certified personnel".

During the course of the hearing, the Employer raised four issues with regard to the petition filed herein, namely:

- "1. Has there been a sufficient showing of interest?
2. Does the petition request a unit separation election, a representation election, or both?
3. If more than one election is held, which election should be conducted first and when, in relation to each other, shall they be held?
4. What are the rights of the employees now represented by the petitioner and what are the requirements of Sec. 111.02(6)?"

Issue No. 1

No showing of interest accompanied the petition at the time of its filing. The Employer contends that, in order to give "sufficient consideration to the employment relations rights of the Employer and the public" the Commission should require that the Union support its petition by showing of interest. In support of this proposition, the Employer cites Sections 111.01(1) and (2), in part, of the Wisconsin Employment Relations Act.

It is apparent from statutory provisions cited by the Employer that there is no reference to any requirement that a petitioner, when filing a petition for election, support the petition by a showing of interest. It has long been the policy of the Commission not to require a showing of interest where the employees involved are not presently represented by another organization. 1/

ISSUE NO. 2

With respect to the second issue, Sec. 111.02(6) of the Wisconsin Employment Peace Act, which is pertinent to the instant issue, states as follows:

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1/ Bellin Memorial Hospital, (8518), 4/68; St. Michaels Hospital, (10771), 2/72.

"The term 'collective bargaining unit' shall mean all of the employees of one employer (employed within the state), except that where a majority of such employees engaged in a single craft, division, department or plant shall have voted by secret ballot as provided in section 111.05(2) to constitute such group a separate bargaining unit they shall be so considered. . . ."

The Union in fact seeks a separate unit among a distinct class of employees, namely professional nurses in the employ of the Employer. The Commission has determined that registered nurses, as professional employees constitute "craft employees within the meaning of the act".<sup>2/</sup> If the nurses in the employ of the Employer were the only employees not included in the existing collective bargaining unit, it would not be necessary to provide a separate unit determination vote among the nurses since they would have constituted the only residual unit of employees of the Employer. However, such a situation does not exist, in addition to nurses, office personnel, laboratory and x-ray technicians and certified personnel are not included in any unit. Therefore, pursuant to Sec. 111.02(6), since the registered nurses "constitute a separate craft", in order to constitute a separate bargaining unit a majority of the nurses excluding supervisory nurses, who are employed by the Employer must vote in favor of constituting themselves a separate bargaining unit. Therefore, the Commission must conduct a unit determination vote, as well as a representation vote, to determine whether the nurses desire to constitute a separate unit and whether they desire to be represented by the Union.

#### ISSUE NO. 3

With regard to Issue No. 3, it has long been the practice of the Commission to conduct a unit determination vote and a representation vote simultaneously on two separate ballots.<sup>3/</sup> It should be noted that in order to establish a separate unit of nurses, a majority of the nurses employed must vote in favor of a separate unit. On the other hand, as provided in Sec. 111.05(1), only a majority of the otherwise eligible nurses voting is required to select the bargaining representative.

#### ISSUE NO. 4

The Employer contends that the following language in Sec. 111.02(6) of the Act namely: ". . . Two or more collective bargaining units may bargain collectively through the same representative where a majority of the employees in each separate unit shall have voted by secret ballot as provided in section 111.05(2) so to do." The Employer contends that the other employees, who are now represented by the Union, must be allowed an appropriate election to decide whether they desire their present representative to also represent the stated separate unit, and further that unless a majority of employees in the unit now represented by the Union answer the question affirmatively, the petition must be dismissed.

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<sup>2/</sup> Mill-way Nursing Home, (6355-A), 11/63; Outagamie County Hospital, (6076), 8/62; Monroe County (8166) 9/67.

<sup>3/</sup> Blochowiac Dairy Co., Milw. Co. Cir. Ct., 8/48.

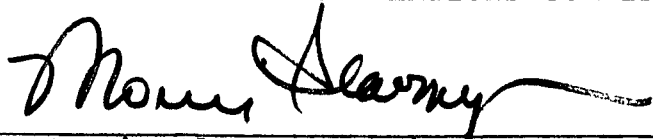
The Employer would have the Commission read into the cited section much more than was intended by the legislature. The section simply permits the same organization to represent employees of one employer in more than one separate bargaining unit. There is no requirement in the Act that the employees in the units involved must affirmatively vote in favor of the representative representing both units. If the Commission were to adopt the Employer's rationale, the ballots cast by the employees in one unit would affect the results of the election conducted in the other unit. Should a situation exist where one union represents employees in more than one unit, at the proper time the employees in any unit of the employer may petition for the conduct of a new election if the employees in any of the units are dissatisfied with the representative who happens to represent the employees in both units. 4/

We are, therefore, today issuing a direction wherein we are directing a separate unit vote as well as a representation vote among all nurses in the employ of the Employer, excluding Supervisors. Since the Employer did not furnish the Hearing Officer with a list of the nurses involved, it is hereby requested to submit to the Commission, within ten days from the date hereof, such a list and at the same time mail a copy thereof to the Union.

Dated at Madison, Wisconsin, this 19th day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

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4/ The Commission will, therefore, not process the petition submitted by the Employer, with its brief, requesting an election among the employees in the existing unit for the purpose claimed by the Employer.