

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
TEAMSTERS UNION LOCAL NO. 695
For Determination of Bargaining
Representative
BARABOO CONCRETE COMPANY

Case I
No. 17127 E-2812
Decision No. 12177

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. Walter Kelly, for Petitioner.
Hill, Quale & Hartmann, Attorneys at Law, by Mr. Forrest D. Hartmann, for Baraboo Concrete Company.

DIRECTION OF ELECTION

Teamsters Union Local No. 695 having petitioned the Wisconsin Employment Relations Commission to conduct an election among certain employes of Baraboo Concrete Company, Baraboo, Wisconsin; and a hearing on such petition having been conducted on September 18, 1973, at Baraboo, Wisconsin; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employes of the above Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the collective bargaining unit consisting of all truck drivers employed by Baraboo Concrete Company, Baraboo, Wisconsin, excluding office clerical employes, guards, and supervisors as defined in the Act, who were employed by the Employer on September 15, 1973, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes desire to be represented for the purposes of collective bargaining by Teamsters Union Local No. 695.

Given under our hands and seal at the City of Madison, Wisconsin, this 27th day of September, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slayney*
Morris Slayney, Chairman

[Signature]
Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The only issue raised at hearing concerned the eligibility of Dennis Brown, a truck driver who is the son of the President of the Employer, whose officers and principle stockholders are Alvin Brown, President-Treasurer and majority stockholder; James Brown, another son of Alvin Brown, Vice-President; and Margaret Brown, the wife of Alvin Brown, Secretary.

The Employer maintains that Dennis Brown, who is 35 years old, is independent of his parents, and holds no proprietary interest in the Employer. The Employer argues that the corporate entity employs Dennis Brown; therefore, he is not employed by his parent.

An employe is defined in Section 111.02(3) of the Wisconsin Employment Peace Act, as "any person":

. . . but shall not include any individual employed in the domestic service of a family or person at his home or any individual employed by his parent or spouse or any employe who is subject to the Federal Railway Labor Act."

The corporate entity does not change the fact that the Employer is a family business. Dennis Brown is the son of the President and principle stockholder. Therefore, he falls clearly within the exclusion expressed in the statute, and he is ineligible to participate in the election. 1/

During the course of the hearing the Employer attempted to ascertain the basis of Local 695's claim of majority status. The Hearing Officer properly sustained Local 695's objection to this line of inquiry. The policy of the Commission is that a labor organization need not make a showing of interest in order to establish a question of representation where the employes are unrepresented. 2/

Dated at Madison, Wisconsin, this 27th day of September, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISS

By


Morris Slavney, Chairman


Zeis Rice II, Commissioner