

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

GENERAL DRIVERS AND HELPERS UNION, :  
LOCAL 662, AFFILIATED WITH THE :  
INTERNATIONAL BROTHERHOOD OF :  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN :  
AND HELPERS OF AMERICA :

Case XI  
No. 17256 ME-989  
Decision No. 12316

Involving Certain Employees of :

PIERCE COUNTY (DEPARTMENT OF SOCIAL :  
SERVICES) :

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Appearances:

Mr. James R. Novacek, President, appearing on behalf of the  
Petitioner.

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

Oltman & Jurgensen, Attorneys at Law, by Mr. Dale Jurgensen,  
appearing on behalf of the Employer.

DIRECTION OF ELECTIONS

General Drivers and Helpers Union, Local 662, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter referred to as the Petitioner, having filed and amended petitions with the Wisconsin Employment Relations Commission to conduct elections, pursuant to Section 111.70, Wisconsin Statutes, among certain employees of Pierce County (Department of Social Services), hereinafter referred to as the Employer; and a hearing on such petition having been conducted at Ellsworth, Wisconsin, on November 6, 1973, Douglas V. Knudson, Hearing Officer, being present; and during the course of the hearing Pierce County Courthouse Employees, Local No. 556-A, AFSCME, AFL-CIO, having been permitted to intervene in the matter; and the Commission having considered the evidence and the arguments of Petitioner and Intervenor and being satisfied that questions of appropriate units and representation have arisen involving certain employees of the above named Municipal Employer;

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, in the following voting groups:

Voting Group No. 1

All regular employees of the Pierce County Department of Social Services at Ellsworth, Wisconsin, conditionally excluding professional employees; and fully excluding the director and supervisors; 1/ who were employed on November

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1/ The supervisory positions were stipulated to be Social Worker Supervisor 1, Basic Services Supervisor and Administrative Assistant.

6, 1973, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented for the purposes of collective bargaining with the above named Municipal Employer on questions of wages, hours and conditions of employment, by General Drivers and Helpers Union, Local 662, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or by Pierce County Courthouse Employees, Local No. 556-A, AFSCME, AFL-CIO, or by no organization.

Voting Group No. 2

All professional employees in the regular employ of the Pierce County Department of Social Services at Ellsworth, Wisconsin, excluding the director, supervisors and all other employees, who were employed on November 6, 1973, except such employees that may prior to the election quit their employment or be discharged for cause, for the purpose of determining:

- 1) Whether a majority of such employees desire to be included in one single bargaining unit with the employees set forth in Voting Group No. 1 above, and
- 2) Whether a majority of such employees desire to be represented by General Drivers and Helpers Union, Local 662, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or by Pierce County Courthouse Employees, Local No. 556-A, AFSCME, AFL-CIO, or by no organization.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

General Drivers and Helpers Union, Local 662, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, by petition dated October 8, 1973, and amended on November 6, 1973, requested the Wisconsin Employment Relations Commission to conduct elections among all regular non-professional employees, and all professional employees, excluding the director and supervisory employees in the employ of Pierce County Department of Social Services. Pierce County Courthouse Employees, Local 556-A, AFSCME, AFL-CIO, was permitted to intervene on the basis of its claim that it presently represents an overall unit of the non-professional employees of Pierce County in which unit the non-professional employees in the Department of Social Services are included. The Intervenor also stated its desire to appear on both ballots in the event elections are directed. Neither the Petitioner nor the Municipal Employer objected to this request by the Intervenor.

The Petitioner desires a unit consisting of all regular non-professional Pierce County Department of Social Services employees, distinct from the existing certified county-wide unit represented by the Intervenor, and that, the professional employees in the department be given the opportunity to vote on whether they desire to be included in the unit of regular non-professional employees in the Pierce County Department of Social Services.

The Petitioner asserts that the proposed non-professional unit is appropriate because the non-professional employees in the Social Services Department have been excluded from coverage of the contract negotiated for a county-wide unit of non-professionals.

On May 26, 1970, following an election conducted by it, the Commission certified the Intervenor as the exclusive collective bargaining representative for "all regular full-time and regular part-time courthouse employees employed by Pierce County, but excluding all elected officials, supervisory, professional and confidential employees". 2/ Subsequent to said certification, the Intervenor and the Employer have entered into collective bargaining agreements covering the wages and hours of "all Pierce County courthouse employees except professional, confidential and supervisory employees". The current collective bargaining agreement between the Intervenor and the Municipal Employer contains a listing of the job classifications covered by said agreement. Said listing includes job titles in various departments of Pierce County, including the highway and sheriff departments. However, nowhere in the listing are there any job titles which correspond to those found in the Department of Social Services. The parties stipulated that the Social Services Department non-professional employees were not covered by the current agreement. Accordingly, it is apparent that there has been abandonment by the Intervenor of its representative status with respect to any of the employees in the department involved herein.

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2/ The Social Services Department non-professional employees were eligible to vote in said election.

Therefore, we conclude that none of the employees in the Department of Social Services are being represented presently by any organization. 3/

Section 111.70(4)(d)(2.a.) of the MERA provides that:

"2. a. 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."

Given the above facts, the Commission considers a question of representation of non-professional Social Services employees to be present and regards the proposed unit of all regular employees, conditionally excluding the professional employees, and fully excluding the director, supervisors and all other employees, to be appropriate. Furthermore, the Commission is satisfied that a question of representation of the professional employees exists and that they, as professional employees, should be afforded the opportunity to determine whether they desire to be included in the non-professional unit.

The representation ballots cast by the professional employees will be challenged by the Commission agent who conducts the balloting. The sequence of counting the ballots will be as follows:

- 1) The ballots cast by the professional employees as to their desire to be included in the non-professional unit will be tallied first.
- 2) If a majority of the eligible professional employees do not vote in favor of inclusion in the non-professional unit, the challenged representation ballots cast by the professional employees will be opened and counted separately, as will the ballots cast by the non-professional employees.
- 3) If the professional employees vote in favor of being included in the non-professional unit, the Commission agent shall open the challenged ballots and deposit the ballots in the ballot box with the ballots of the non-professional employees in such a manner as to preserve the secrecy of the ballots, and thereupon count the combined ballots.

In the event that the professional employees vote for inclusion in the non-professional unit, the appropriate bargaining unit shall consist of all regular employees of the Pierce County Social Services Department, including professional employees, but excluding the director, and supervisors. 4/ Should the professional employees reject inclusion

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3/ Portage County (Department of Social Services), (11308 & 11309), 9/72.

4/ Social Worker Supervisor 1, Basic Services Supervisor and Administrative Assistant.

in the non-professional unit, the appropriate units shall consist of (1) all regular employes of the Pierce County Social Services Department, excluding the director, professional employes and supervisors, and (2) all regular professional employes in the employ of the Pierce County Social Services Department, excluding the director, supervisors and all other employes of said Department.

The Municipal Employer contends, without opposition from either labor organization, that Roxanne Truthman and Mrs. Vickie Nelson, both of whom are classified as a Case Aide I, are ineligible to vote in the election because they were hired as limited term appointments. Nelson, who works on a half-time basis, was hired in April, 1973, for the specific purpose of assisting with the transfer of certain County Assistant programs to federal agencies. Her role in said project will be completed on or before December 31, 1973, at which time she will be terminated. Truthman was hired in September, 1973, to fill a regular full-time position on a temporary basis. The Municipal Employer states that her position will be vacated when her work involving the transfer of County Assistant programs to federal agencies is completed. Said transfer should be completed no later than April 1, 1974. We conclude therefore that Truthman and Nelson are temporary employes with no expectancy of continued employment, and therefore not eligible to vote. 5/

Dated at Madison, Wisconsin, this 7th day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

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5/ City of Milton, (10381), 6/71.