

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ST. CROIX COUNTY (DEPARTMENT OF SOCIAL SERVICES)

Case XIV
No. 17232 ME-986
Decision No. 12338

Mr. James R. Novacek, President, appearing on behalf of the
Petitioner.
Mr. Guido Cecchini, Representative, appearing on behalf of
the Intervenor.
Mr. Owen Williams, District Attorney, appearing on behalf of
the Employer.

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 St. Croix County (Department of Social Services), hereinafter referred to as the Employer; and a hearing on such petition having been conducted at Hudson, Wisconsin, on November 6, 1973, Douglas V. Knudson, Hearing Officer, being present; and during the course of the hearing St. Croix County Courthouse Employees, Local No. 576-B, 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;

DIRECTED

Voting Group No. 1

No. 12338

of Social Services at Hudson, Wisconsin, conditionally excluding professional employees; and fully excluding the Director, confidential employees and supervisors, 1/ who were employed on November 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 by General Drivers and Helpers Union, Local 662, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or by St. Croix County Courthouse Employees, Local No. 576-B, AFSCME, AFL-CIO, or by neither of said organizations, for the purpose of collective bargaining with the above-named Municipal Employer on questions of wages, hours and conditions of employment.

Voting Group No. 2

All professional employees in the regular employ of the St. Croix County Department of Social Services at Hudson, Wisconsin, excluding supervisors, the Director, and all other employees, who were employed on November 6, 1973, except such employees as 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 consisting of 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 St. Croix County Courthouse Employees, Local No. 576-B, AFSCME, AFL-CIO, or by neither of said organizations.

Given under our hands and seal at the City of Madison, Wisconsin, this 17th day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Grayney, Chairman


Asst. S. Rice II, Commissioner


Howard S. Bellman, Commissioner

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- 1/ The supervisory positions were stipulated to be Social Service Supervisor and Income Maintenance Supervisor. The parties stipulated to the exclusion of Pearl Frazier as a confidential employee.

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, petitioned the Wisconsin Employment Relations Commission to conduct separate elections among all regular non-professional employees, and all professional employees, excluding the Director, confidential employees and supervisors in the employ of St. Croix County Department of Social Services to determine their desire as to representation. St. Croix County Courthouse Employees, Local 576-B, AFSCME, AFL-CIO, was permitted to intervene on the basis of its claim that it presently represents a Court House unit of the non-professional employees of St. Croix County (except for the non-professional employees in the Department of Social Services) in which unit the non-professional employees in the Department of Social Services should be placed. The Intervenor also stated its desire to appear on both ballots in the event elections are directed in the units sought by the Petitioner. 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 St. Croix County Department of Social Services employees, distinct from the existing certified non-professional court house unit represented by the Intervenor, and also that the professional employees in said department be given the opportunity to determine for themselves as to whether they desire to be included in the unit of regular non-professional employees in the St. Croix 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 by the county-wide unit of non-professionals.

The Employer contends that the non-professional employees in the Social Services Department should be included in the unit of non-professional employees presently represented by the Intervenor, because both groups have similar duties, fringe benefits and compensation. While the Employer does not object to the proposed unit of professional employees of the Social Services Department, it does oppose that the professional employees be permitted to vote on inclusion in a unit of non-professional employees because of what it believes to be a lack of homogeneity of duties, qualifications and compensation between the professional and the non-professional employees.

On April 8, 1969, following an election conducted by it, the Commission certified the Intervenor as the exclusive collective bargaining representative for "all courthouse employees of St. Croix County, Hudson, Wisconsin, excluding elected officials, Sheriff's Deputy Secretary and supervisory employees". The parties stipulated that the non-professional employees of the Social Services Department were not eligible to vote in said election. Subsequent to said certification, the Intervenor and the Employer have entered into collective bargaining agreements covering the wages and hours of "all full-time regular courthouse employees of St. Croix County, Hudson, Wisconsin, excluding elected officials, District Attorney's secretary, Sheriff's Deputy Secretary and supervisory employees". The current collective bargaining agreement between the Intervenor

and the Employer contains a listing of the job classifications covered by said agreement. 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 are not covered by the current agreement, nor by the agreement already reached by the Employer and the Intervenor for the calendar years 1974 and 1975. The parties further stipulated that the Social Services Department professional employees are not included in any existing bargaining unit. Therefore, we conclude that none of the employees in the Department of Social Services are being represented presently by any organization, nor are they included in any existing collective bargaining unit or units.

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."

The Commission is satisfied that the Social Services Department non-professional employees function in a department which is distinct from those covered by the existing non-professional employee bargaining unit in terms of immediate supervision, work function and lack of interchange with other Court House employees. Furthermore, the accretion of the Social Services Department non-professional employees to the existing unit of non-professional employees would result in a significant increase in the size of said unit, and would have a delayed impact on bargaining for said non-professional employees since the Employer and Intervenor have already negotiated a collective bargaining agreement covering said existing unit for the calendar years of 1974 and 1975.

Given the above facts, the Commission considers that a question of representation affecting non-professional Social Services employees to be present and regards the proposed unit of all regular non-professional employees, of the Department of Social Services, conditionally excluding professional employees, and fully excluding the Director, confidential employees and supervisors, to be appropriate. Furthermore, the Commission is satisfied that a question of representation affecting the professional employees exists and that they, as professional employees, will 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 St. Croix County Social Services Department including professional employees, but excluding confidential employees, supervisors, and the Director. 2/ Should the professional employees reject inclusion in the non-professional unit, the appropriate units shall consist of (1) all regular employees of the St. Croix County Social Services Department, excluding professional employees, confidential employees, supervisors, and the Director and (2) all regular professional employees in the employ of the St. Croix County Social Services Department, excluding supervisors, the Director, and all other employees of said department.

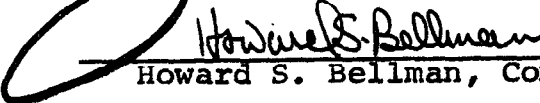
Dated at Madison, Wisconsin, this 17th day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Stawney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner

2/ The supervisory positions are Social Service Supervisor and Income Maintenance Supervisor. Pearl Frazier is a confidential employee.