

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

NATIONAL UNION OF HOSPITAL AND HEALTH CARE EMPLOYEES, A DIVISION OF RETAIL, WHOLESALE, DRUG STORE UNION, AFL-CIO

For a Referendum on the Question of an All-Union Agreement between

LAKESHORE MANOR, INC. Madison, Wisconsin, Employer

and NATIONAL UNION OF HOSPITAL AND HEALTH CARE EMPLOYEES, A DIVISION OF RETAIL, WHOLESALE, DRUG STORE UNION, AFL-CIO, Union

Case VII No. 17675 R-5613 Decision No. 12539

ORDER DENYING MOTION TO POSTPONE HEARING

On February 19, 1974, National Union of Hospital and Health Care Employees, a Division of Retail, Wholesale, Drug Store Union, AFL-CIO, hereinafter referred to as the Petitioner, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct a referendum among certain employes of Lakeshore Manor, Inc., Madison, Wisconsin, to determine whether such employes desire to authorize an "All-Union Agreement" between said Petitioner and said Employer; on February 25, 1974, the Commission issued a notice setting hearing in the matter for March 12, 1974; and on March 7, 1974, said Employer having filed a motion with the Commission requesting the Commission to dismiss the petition on the basis that the Commission, on February 1, 1973, conducted a referendum and certified the results thereof on January 22, 1974, wherein it determined that the required number of employes had not authorized an "All-Union Agreement" between Local 222, United Nursing Home & Hospital Employees Federation and the Employer; and in its motion the Employer having contended that it is inappropriate to entertain such petition within one year of the date of said Certification, and, therefore, the Employer moved that the petition is untimely and should be dismissed; and the Commission being satisfied that hearing be conducted in the matter to take evidence with regard to the facts alleged in the motion, as well as any other evidence pertinent to any issue involved herein;

NOW, THEREFORE, it is

ORDERED

That the motion of Lakeshore Manor, Inc. to adjourn the hearing scheduled for March 12, 1974, be, and the same hereby is, denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO POSTPONE HEARING

Following a stipulation executed by the Employer and Local 222, United Nursing Home & Hospital Employees Federation, hereinafter referred to as Local 222, the Commission conducted a referendum on February 1, 1973, among all employes of the Employer excluding registered nurses, licensed practical nurses, managerial employes, unit managers, confidential employes, guards and supervisors. Following the conduct of the referendum, Local 222, on February 9, 1973, filed objections thereto. On February 19, 1973, the Commission issued an Order to make said objections more definite and certain. Hearing on the objections was conducted on March 22, 1973. Following the hearing a decertification petition was filed with the National Labor Relations Board involving the same Union and the same Employer, and the National Labor Relations Board, on July 20, 1973, dismissed said petition. Thereafter the Commission set August 15, 1973, as the date for the filing of briefs with respect to the objections to the conduct of the referendum, and on January 14, 1974, the Commission issued its Order denying the objections, and on January 22, 1974, issued a Certification setting forth that the required number of the eligible employes in the unit failed to vote in favor of an "All-Union Agreement" between the Employer and Local 222.

The petition initiating the instant referendum proceeding was filed on February 19, 1974, by National Union of Hospital and Health Care Employees, a Division of Retail, Wholesale, Drug Store Union, AFL-CIO, hereinafter referred to as the Petitioner. In its petition said organization contends that it is the bargaining representative of the employes involved. Following the receipt of the petition the Commission on February 25, 1974, set hearing thereon for March 12, 1974. Thereafter and on March 7, 1974, the Employer filed a motion with the Commission requesting the Commission to dismiss the petition and to postpone the hearing "until such time as this matter is appropriately dismissed." The Employer sets forth grounds for dismissal the fact that the Commission issued its Certification of the previous referendum on January 22, 1974, less than a month prior to the date on which the instant petition was filed. There was no indication that the Employer sent a copy of the motion to the Petitioner.

The Commission deems that a hearing is necessary in order to adduce evidence with respect to the apparent change in the bargaining representative, since the original referendum involved Local 222. The Commission will expect the parties to adduce evidence as to the representative status of the Petitioner, including but not limited to, facts as to whether the Petitioner is a successor to Local 222 as the collective bargaining representative, or whether the Petitioner was certified in an election conducted by the National Labor Relations Board. Furthermore, we deem that the Petitioner should be given an opportunity to present evidence and argument with respect to the motion to dismiss the petition, as well as to whether its petition is timely. Of course, the Employer will also be given the opportunity to do likewise. Therefore, the motion to dismiss is being denied at this time, and the hearing will proceed as scheduled.

Dated at Madison, Wisconsin, this 7th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney

Morris Slavney, Chairman

Howard S. Bellman

Howard S. Bellman, Commissioner