

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF MENASHA (FIRE DEPT.)

Case XXIII  
No. 17832 ME-1050  
Decision No. 12725

Mulcahy & Wherry, Attorneys at Law, by Mr. John F. Maloney,  
appearing on behalf of the Employer.

NOW, THEREFORE, it is

Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Prior to the commencement of the hearing, the Municipal Employer requested that the hearing be postponed in order to permit Local 695 of the International Association of Fire Fighters to intervene in this matter. Local 695, I. A. F. F. is the voluntarily recognized bargaining agent for the nonsupervisory firefighters in the employ of the Fire Department of the City of Menasha, for a unit described as all officers and firefighters of the City of Menasha, except Captains and the Chief. Local 695 did not intervene or request permission to intervene in this proceeding. Therefore, the request for postponement was denied.

The Petitioner, Captain William R. Akstulewicz, filed a petition for an election in which three of four Captains of the Menasha Fire Department are listed by name. After the hearing was closed, Captain William R. Akstulewicz advised the Hearing Officer that the petition in this matter was filed by him on behalf of the Menasha Supervisory Personnel Committee and it was his desire that that organization appear on the ballot. Counsel for the Municipal Employer was so advised and he raised no objection.

The petition was filed pursuant to Section 111.70(3)(d) which provides as follows:

"Nothing in this subchapter shall preclude law enforcement (sic) or firefighting supervisors from organizing separate units of supervisors for purposes of negotiating with their municipal employers. . . ."

For purposes of Section 111.70(3)(d) a supervisor is defined by the Municipal Employment Relations Act at 111.70(1)(o)2 as follows:

"(o) 'Supervisor' means:

. . .

2. As to firefighters employed by municipalities with more than one fire station, the term 'supervisor' shall include all officers above the rank of the highest ranking officer at each single station. In municipalities where there is but one fire station, the term 'supervisor' shall include only the chief and the officer in rank immediately below the chief. No other firefighter shall be included under the term 'supervisor' for the purposes of this subchapter.

. . ."

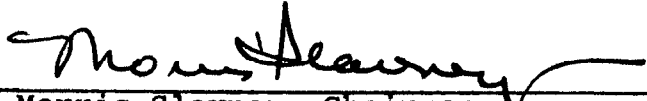
The Fire Department is comprised of 37 men, including the Chief. They are situated at two fire stations designated as the Main and North Side Stations. The order of rank proceeds from Chief to four Captains, who are located at the Main Fire Station; the Lieutenant is the highest ranking officer at each station. Three of the four Captains are Line Captains and work the firefighter shift, i.e., 24 hours on and 48 hours off. The Line Captain makes the daily assignments, has the authority to transfer employees from one station to another, makes personnel eval-

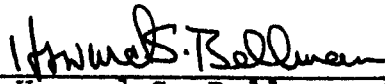
uations which are submitted to the Chief, and makes recommendations for discipline which are submitted to the Chief for his action. The Line Captain is the officer in charge of men and equipment at a fire. The Training Captain works a five-day week between the hours of eight and four, performs and is in charge of Fire Inspection. He does not directly supervise Firefighters nor is he in charge of men and equipment at a fire. During the course of the hearing the parties agreed to exclude the Training Captain from the unit involved herein.

Dated at Madison, Wisconsin, this 24th day of May, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman



Howard S. Bellman, Commissioner