STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
CAPTAIN WILLIAM R. AKSTULEWICZ	•	Case XXIII
	•	No. 17832 ME-1050
Involving Certain Employes of	:	Decision No. 12725
CITY OF MENASHA (FIRE DEPT.)	:	
	:	

Appearances:

Captain William R. Akstulewicz, appearing on behalf of Petitioner. Mulcahy & Wherry, Attorneys at Law, by Mr. John F. Maloney,

appearing on behalf of the Employer.

DIRECTION OF ELECTION

Captain William R. Akstulewicz, of the Menasha Fire Department, having filed a petition with the Wisconsin Employment Relations Commission, requesting that the Commission conduct an election among certain supervisory personnel in the employ of the Menasha Fire Department; and hearing having been held in the matter on May 1, 1974, Sherwood Malamud, Hearing Officer, being present; and the Commission, having reviewed the evidence and arguments of the parties and being fully advised in the premises and being satisfied that a question has arisen concerning representation of certain supervisory personnel of the above named Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all supervisory firefighter personnel (Line Captains) in the employ of the Menasha Fire Department, but excluding the Chief, and the Captain in Charge of Training and Inspection, who are employed by the Municipal Employer on May 24, 1974, except such supervisory personnel as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such supervisory personnel desire to be represented by the Menasha Supervisory Personnel Committee for the purposes of collective bargaining with the City of Menasha on wages, hours and conditions of employment.

> Given under our hands and seal at the City of Madison, Wisconsin this 24th day of May, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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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 enforcment (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)(0)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 employes from one station to another, makes personnel eval-

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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

K By Morris Slavney, Chairman

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