

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, AFSCME,
AFL-CIO

Involving Certain Employees of

JUNEAU COUNTY (PLEASANT ACRES
INFIRMARY)

Case VII
No. 17660 ME-1030
Decision No. 12814

Appearances:

Mr. Walter J. Klopp, Representative, for the Petitioner.

Mr. Richard Kelly, District Attorney, for the Employer.

DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among certain employees of Juneau County, (Pleasant Acres Infirmary); and a hearing on such petition having been conducted at Mauston, Wisconsin on March 18, 1974 before Zel S. Rice II, Commissioner, and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employees of Juneau County;

NOW, THEREFORE, it is

DIRECTED

That an election 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 collective bargaining unit consisting of all regular full-time and regular part-time employees employed by Juneau County at the Pleasant Acres Infirmary, but excluding the Superintendent, professional employees, craft employees, supervisory employees, and confidential employees, who were employed by the Municipal Employer on March 18, 1974, 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 Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO for the purpose of collective bargaining with Juneau County, Pleasant Acres Infirmary, on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin this 21st
day of May, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Staveney, Chairman

Zel S. Rice II, Commissioner

Howard S. Bellman, Commissioner

No. 12814

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing, a question arose as to whether four positions should be included in the agreed upon bargaining unit consisting of all full-time and regular part-time employees employed at Pleasant Acres Infirmary, but excluding the Superintendent, professional employees, craft employees, supervisory employees, and confidential employees. The Employer objected to the inclusion of the positions of Licensed Practical Nurse, Head Cook - Dietary Supervisor, Activity Aide, and Bookkeeper-Secretary in the bargaining unit. It contends that the first three positions are supervisory, and that the last position is confidential.

Licensed Practical Nurse (Second Shift)

The testimony of Dean Dixon, Administrator, Pleasant Acres Infirmary, established that Jessie Lindley was a Licensed Practical Nurse, employed on the second shift, and, that during her tour of duty she administered non-narcotic medication, shots, and answering any questions which the four nurses' aides on that shift might have. Dixon also testified that Jessie Lindley spent 40% of her time in preparing and administering medications, 40% of her time working with patients and nurses' aides, and, 20% of her time in charting patients.

Dixon testified that Lindley was also responsible for "supervising" four nurses' aides, however, the record established that Lindley did not give out work assignments, was not able to hire, fire, layoff or suspend the nurses' aides and did not have the authority to grant requests of the nurses' aides for time off. She does, however, check on the nurses' aides to see that they are performing their duties. Dixon testified that Lindley's recommendations with respect to discipline and discharge would be given consideration.

We are satisfied that Lindley spends the majority of her time involved with patient care rather than supervising the four nurses' aides who work on the second shift with her. She also has no authority to direct the work force as evidenced by her lack of authority to hire, fire, layoff, suspend or permit time off. Consequently, the Commission finds that Jessie Lindley is not a supervisor as defined in Section 111.70(1)(0) of the Act and, therefore, is included within the unit.

Head Cook - Dietary Supervisor

Irene Scott is the Head Cook and Dietary Supervisor. In the chain of command, she is directly responsible to the Consultant Dietician, who is employed only five hours on Monday of each week, and to the Administrator. Scott's duties include working with the Dietician in preparing menus, diets, work schedules and reports. She sees to it that employees perform their tasks. She also orders groceries and purchases all supplies after consultation with the Dieticians. The work schedules of the employees are quite routine and have been established over the years. Scott cooks the morning and noon meals. She is the only cook on duty during the period she works, except on Mondays, when another cook assists her. Kitchen employees who are unable to report to work are required to advise her. Scott is paid \$2.76 per hour. The rates of pay of those who work with her range from \$1.90 per hour, for the dietary aides, to \$2.37 for the Assistant Cooks. She receives the higher rate of pay primarily because of her skills as a cook rather than for performing "supervisory" functions. While Scott does perform some supervisory functions, the great majority of her time is spent in preparing meals and performing work similar to the other employees in the kitchen. While the Administrator indicates that he intends to assign Scott additional supervisory

duties, to evaluate employees and perform in a managerial capacity, such has not been assigned such duties and responsibilities to date. Scott is at the most a team leader, or working foreman, and is included in the bargaining unit and permitted to vote.

Activity Aide

The County asserted at the hearing that Verwiebe, the Activity Aide, is a supervisory employee and, therefore, excludable from the unit. Testimony adduced at the hearing established that her primary responsibility involves the coordination of programs for residents of Pleasant Acres Infirmary. Such duties involve contact with outside groups, and Infirmary nurses and aides. It was clearly established that Verwiebe is primarily engaged in supervising an activity, as opposed to the direct supervision of other Infirmary employees and, therefore, is not a supervisor as defined in Section 111.70(1)(0) of the Act, and as a result is included in the unit.

Bookkeeper-Secretary

The County asserted that Brigham was a confidential employee and, therefore, should be excluded from the unit. The testimony established that her duties involved typing and filing work wherein she would have access to payroll and personnel records. However, it also was established that she did not attend the County Board meetings, nor is she privy to discussions between the Administrator and the County Board concerning employees or bargaining strategy.

In order for an employee to be considered in a confidential relationship with management and thereby excluded from the unit, the Commission has held that such employee must be privy to decisions of the employer with respect personnel and labor relations policies. 1/ The Commission has also concluded that the fact that an employee may occasionally be assigned confidential duties is not a basis for exclusion from the unit. 2/ Therefore, the Commission concludes that Gladys Brigham, Bookkeeper-Secretary, is not a confidential employee within the meaning of the Act and is included among the eligibles in the unit.

Dated at Madison, Wisconsin this 21st day of June, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner

1/ City of Milwaukee (11971) 7/73.

2/ Outagamie County (11923) 6/73; Watertown Unified School District No. 1,
(12166-A) 3/74.