

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Request of

ONEIDA COUNTY

and

ONEIDA COUNTY EMPLOYEES LOCAL UNION NO. 79,
WCCME, AFSCME, AFL-CIO

For Clarification of Bargaining Unit

Case IX
No. 17928 ME-1059
Decision No. 12904

ORDER CLARIFYING BARGAINING UNIT

Oneida County and Oneida County Employees Local Union No. 79, WCCME, AFSCME, AFL-CIO, having, in writing, requested the Wisconsin Employment Relations Commission to clarify an existing bargaining unit presently represented by said labor organization, specifically to determine whether the positions of Custodian I and Assistant County Forest Administrator should or should not be included in a unit consisting of all regular full-time and regular part-time employees of the Oneida County Courthouse, excluding all elected, supervisory and confidential personnel; and, pursuant to notice, a hearing having been held in the matter at Rhinelander, Wisconsin, on July 11, 1974, Dennis P. McGilligan, Hearing Officer, being present; and the Commission having considered the evidence and arguments and being fully advised in the premises, makes and files the following

ORDER

That the position of (1) Custodian I is included in the collective bargaining unit consisting of all regular full-time and regular part-time employees of the Oneida County Courthouse, excluding all elected, supervisory and confidential personnel; and (2) that the position of Assistant County Forest Administrator is excluded from the above described bargaining unit for the reason that it is a supervisory position.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Zel S. Rice II, Commissioner

Howard S. Bellman, Commissioner

No. 12904

MEMORANDUM ACCOMPANYING ORDER
CLARIFYING BARGAINING UNIT

Oneida County Employees Local Union No. 79 WCCME, AFSCME, AFL-CIO and Oneida County are parties to a collective bargaining agreement effective for the calendar year 1974 covering all regular full-time and regular part-time employees of the Oneida County Courthouse, excluding all elected, supervisory and confidential personnel.

Head Custodian

The position of "Head Custodian" is specifically included in the list of job classifications covered by the collective bargaining agreement under the title "Custodian I." Mr. David Olander, who has held that position for eleven years has one full-time employee and one part-time employee who worked with him on a regular basis. Occasionally, Olander has prisoners and (or) welfare recipients who work cleaning sidewalks, cutting grass and the like. Olander is paid \$580 per month, which is only \$20 higher than the other full-time employee who works along with him.

Olander is responsible for the upkeep and maintenance of the courthouse and surrounding grounds. He performs yardwork, does minor electrical and plumbing work, maintains the boiler, orders routine supplies, and handles other janitorial duties. In addition, he has certain security responsibilities regarding the jail and the courthouse records. Olander meets with the Public Property Committee twice a month and clears most major work-related decisions with said Committee before implementing them. Olander works extra hours when the need arises and is on call for emergencies.

Olander has some input, but does not effectively recommend that an employee be hired, promoted or disciplined, which decisions are made by the Public Property Committee. He delegates job duties on a daily basis although mostly in a set pattern. Olander has never transferred, laid off, recalled, suspended, discharged, or rewarded an employee. Olander assists in the preparation of the budget, but there is no evidence that he participates in setting policy in this area. Olander spends not more than 10% of his time in activities which might be deemed supervisory and spends the bulk of his time performing unit work.

Since Olander, as Head Custodian, spends a majority of his time performing unit work, and his assignment of tasks to custodial employees is routine in nature, and because his major non-routine work is performed only with the approval of the Public Property Committee, 1/ and since he has only very limited supervisory authority, 2/ Olander is found to be a "working foreman," and included in the unit.

Assistant County Forest Administrator

The above position is newly created and not included in the list of job classifications set forth in the collective bargaining agreement, Mr. Richard Rollman was hired for the position on January 1, 1974. He is responsible for timber sales, setting up and cruising on forest land, and assisting in carrying out policy and projects for the Forest

1/ Lake Geneva Jt. School Dist. No. 1 (11688) 3/73; Wautoma Jt. School Dist. No. 1 (12300) 11/73.

2/ Menomonie School Dist. No. 1 (11902) 5/73.

Administrator. There are two forest laborers, one clerical and two summer employees who are employed in the Forestry Department under the direction of the Forest Administrator; however, when Rollman completes his training period the employees will be primarily under Rollman's direction. When the Administrator is absent or unavailable Rollman directs the employees and otherwise manages the office.

Rollman is consulted as to his opinion relative to hiring, suspension, layoff, recall, discharge and discipline of employees, although the Forestry and Parks Committee, and ultimately the County Board, must make the final decision. Rollman testified that his recommendation, if reasonable, would be followed by the Committee. Testimony by the Committee Head supports this contention.

Rollman spends approximately 80% of his time working alone or along with the other employees of the Department, and approximately 20% thereof in the management and supervision of forest lands. The amount of time Rollman spends on management and supervision is expected to increase substantially when he completes his training program.

Rollman has the authority to schedule work activities and supervise the employees in the cutting of trees. He makes studies and determines areas that are in need of replanting. Rollman is about to take over for the Administrator in his absence by operating the office, fulfilling information requests and making decisions. After completion of his training period both Rollman and the Administrator feel his (Rollman's) ability and occasions to make final and independent decisions regarding forest department work will increase. At present Rollman reports directly to the Forest Administrator and the Forestry and Parks Committee.

There is some evidence to indicate that the position "Assistant County Forest Administrator" is intended by the County to serve as a training position for that of Forest Administrator. However, Rollman has not been advised thereof. The County did introduce evidence, unrefuted by the Union, showing the County created the position in order that the Assistant County Forest Administrator might supervise employees and make decisions in running the Department in the event the Forest Administrator was unavailable. The County also indicated that on relieving the present Administrator of some of his duties the Assistant Administrator would be given major responsibilities in his area of competence -- forestry.

Although at present Rollman makes only \$2 more than a Forestry Leadman, there is some indication that once he completes his probation or training period his salary will be increased by not less than \$25 above his present \$600 salary.

The Commission has found that where a tree crew foreman and assistant forester spends approximately 100% of his time performing supervisory functions; can effectively recommend the hiring and discharging of employees under his supervision; has at certain times of the year three full-time and two part-time employees under his immediate supervision; attends conferences on forestry subjects and makes reports directly to the Parks and Recreation Departments of the Municipal Employer he is a supervisor and excluded from the unit. ^{3/} In declaring that an Assistant Superintendent of Cemetery and Parks was a supervisor

^{3/} City of Waukesha (6153) 10/62.

within the meaning of the Municipal Employment Relations Act, and therefore excluded for the then existing unit the Commission said:


"The person occupying said position supervises thirty regular employees and as many as forty-four temporary employees. In that regard said individual has effectively hired, transferred and disciplined temporary employees. He has the authority to recommend the discharge, discipline and promotion of full-time employees." 4/

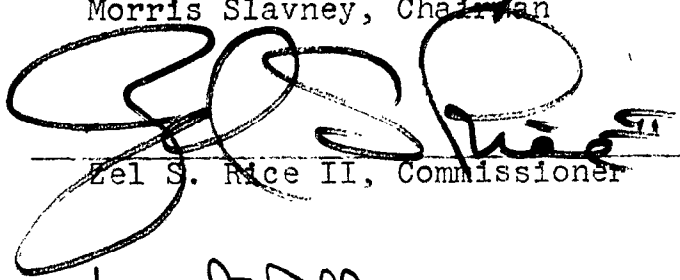
In the present case Rollman has or soon will have direct control over five employees. He has the power to effectively recommend in the hire, fire, suspension, layoff, recall, discharge, and discipline of employees although the final decision rests with the Forestry and Parks Committee, and when the Administrator is absent, Rollman takes his place and is responsible for the management operation of the Forestry Department. There is evidence that the amount Rollman is paid will be increased following completion of his probationary period. Although Rollman spends approximately 20% of his time in purely supervisory duties there is every indication that as he becomes more experienced and knowledgeable about his work this percentage will increase. Finally, he coordinates the forestry work of Oneida County with the Department of Natural Resources and other governmental agencies in a managerial capacity.

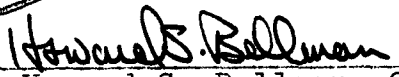
In conclusion, with respect to the above, the Commission finds that Rollman is a supervisor within the meaning of the Municipal Employment Relations Act, and is, therefore, excluded from the existing unit.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney, Chairman


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