

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Involving Certain Employees of  
CITY OF BRILLION

Case I  
No. 17995 ME-1066  
Decision No. 12915

Mr. Michael J. Wilson, District Representative, appearing on behalf of the Petitioner.

Mr. Keith G. Ondrasek, Assistant City Attorney and Mr. Clarence Wolf, Mayor, appearing on behalf of the Municipal Employer.

Local 1362, 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 the City of Brillion; and a hearing on such petition having been conducted at Brillion, Wisconsin on July 9, 1974, Douglas V. Knudson, Hearing Officer, being present; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employees of the above named Municipal Employer;

NOW, THEREFORE, it is

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) 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 the City of Brillion, but excluding elected officials, the Director of Public Works, the Director of the Community Center, the City Clerk-Treasurer, the City Building Inspector, law enforcement employees, seasonal and casual employees, who were employed by the City of Brillion on August 6, 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 Local 1362, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purpose of collective bargaining with the City of Brillion, on questions of wages, hours and conditions of employment.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 6th  
day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

~~Morris Slavney, Chairman~~

Zel S. Rice II, Commissioner

No. 12915

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Union sought an election among:

"All employees of the Department of Public Works and City Hall, and Community Center excluding elected officials, the Director of Public Works and the Director of the Community Center."

The parties stipulated the following exclusions from the bargaining unit: the Director of Public Works and the Director of the Community Center as supervisors; and, the part-time students employed at the Community Center and the individuals employed on a part-time seasonal basis at the cemeteries and parks. The parties also stipulated to the exclusion of the City Clerk-Treasurer and the part-time Building Inspector on the basis that they were appointed officers, and also the part-time Landfill Operator on the basis that he was a retiree receiving social security payments. The Commission excludes the City Clerk-Treasurer from the unit, not on the basis that he was an appointed officer, but that he is managerial. Likewise, it does not accept the stipulation to exclude the part-time Building Inspector because he is an appointed employee, but rather the part-time Building Inspector is excluded from the unit because he is a casual employee. Furthermore, we reject the stipulation to exclude the Landfill Operator on the basis that he works from seven to eight hours per week for at least 42 weeks during the year. The receipt of social security benefits by a regular part-time employee is not sufficient basis to exclude said employee from a bargaining unit. Therefore, the Landfill Operator is included in the bargaining unit and is eligible to vote in the election. During the course of the hearing, issues arose with respect to the eligibility of the Street Superintendent and a part-time Librarian. The Municipal Employer contends that the Street Superintendent should be excluded as a supervisor and that the Librarian, who is receiving social security payments, lacks a community of interest with the other bargaining unit employees.

Street Superintendent:

The Department of Public Works is staffed by a Director, a Street Superintendent, a Sewerage Plant Operator, a Water Plant Operator, six to eight full-time laborers and several part-time seasonal and temporary employees. The Street Superintendent gives out work assignments to the laborers after conferring with the Director and checks on (and if necessary instructs) the laborers to determine that they are performing their duties. While the Street Superintendent has given some verbal reprimands, he has neither participated in, nor effectively recommended, the hire, discharge, layoff, suspension or wage increase of the laborers. While the Street Superintendent does perform some "supervisory" functions, the majority of his time is spent in performing work similar to the other employees in the Department. He receives a higher rate of pay than the laborers, primarily because of his knowledge and experience rather than for performing "supervisory" functions. The Street Superintendent is at most a crew leader, or working foreman, and is included in the bargaining unit and permitted to vote.

Part-time Librarian:

The library is operated by two part-time employees, a Head Librarian, and a Librarian who is retired and is receiving social security payments. Said individual is regularly scheduled to work approximately twelve hours per week, but is permitted to take off from work at her convenience. The part-time Head Librarian then works in her place. The Librarian does not work beyond the point where her


earnings would reduce her social security payments. She receives a monthly salary of one hundred forty dollars (\$140) compared to the Head Librarian's monthly salary of two hundred dollars (\$200) for a work schedule of sixteen hours per week. We are satisfied that the part-time Librarian has a sufficient interest in the wages, hours and working conditions governing her employment and therefore is included in the voting group, and, therefore, is eligible to vote in the election.

During the course of the hearing, the Municipal Employer presented no list of the employees. Therefore, the Employer is directed to submit such a list to the Commission within ten days hereof, which list shall include the names of the employees and the position occupied by each individual employee. A copy of said list shall be sent to the Union at the same time it is submitted to the Commission.

Dated at Madison, Wisconsin, this 6th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

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