

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WAUSAU HOSPITALS, INC.

Case IV
No. 17799 E-2842
Decision No. 12946

Tinkham, Smith, Bliss, Patterson & Richards, Attorneys at Law,
by Mr. Richard P. Tinkham, appearing on behalf of the Employer.

Chauffeurs, Teamsters, Warehousemen and Helpers Union, Local No. 446, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter referred to as the Petitioner, having filed a petition with the Wisconsin Employment Relations Commission requesting the conduct of an election, pursuant to Section 111.05 of the Wisconsin Employment Peace Act, among certain employees of Wausau Hospitals, Inc., hereinafter referred to as the Employer; and hearing having been held on April 16, 1974 at Wausau, Wisconsin before Commissioner Zel S. Rice II; and the Commission having considered the petition, evidence, arguments and briefs of the counsel, and being satisfied that questions have arisen concerning appropriate bargaining unit representation for certain employees of the Employer;

NOW, THEREFORE, it is


That elections 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 bargaining unit consisting of Medical Technologists and Certified Laboratory Assistants employed in the laboratories of Wausau Hospital, Inc., Wausau, Wisconsin, but excluding supervisors, confidential employees, and all other employees, who were employed by the Employer on August 19, 1974, except such employees who quit their employment or are terminated for cause prior to the election for the purpose of (1) determining whether a majority of such employees desire to constitute themselves a unit separate and apart from other unrepresented professional employees in the employ of the Employer, and (2) determining whether a majority of such employees desire to be represented by Chauffeurs, Teamsters, Warehousemen and Helpers Union, Local No. 446, affiliated with the International

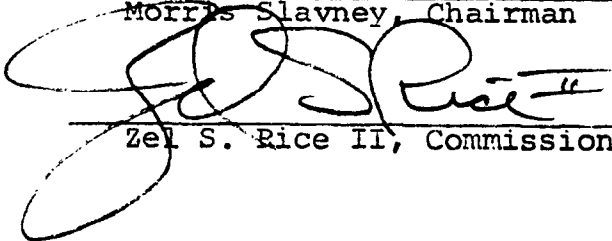
Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, for the purposes of collective bargaining on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 19th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Employer herein, Wausau Hospital, Inc., Wausau, Wisconsin, operates two facilities: Wausau Hospital North and Wausau Hospital South. The Petitioner has filed a petition requesting an election among the employees of the Employer in a bargaining unit consisting of certain employees of the Employer employed in the laboratories at Wausau Hospital North and Wausau Hospital South.

Local 150 Hospital and Service Employee's Union has been the collective bargaining representative of virtually all of the employees of the Employer at Wausau Hospital North but that certification specifically excludes the positions of Medical Technicians and Certified Laboratory Assistants. The Petitioner seeks to represent such excluded positions, along with the same positions at Wausau Hospital South. The three laboratory assistants and one clerk steno who work in the Wausau Hospital North lab are in the Local 150 bargaining unit along with all other employees of the Hospital. The Petitioner seeks to represent only those employees in the laboratory division occupying the positions of Medical Technologists and Certified Laboratory Assistants.

The laboratory at Wausau Hospital North is composed of six or seven rooms that are all in one general area except that they are separated by walls or hallways. The laboratory at Wausau Hospital South contains three or four rooms that are in the same general area except that they are separated by walls or corridors. The Certified Laboratory Assistants and Medical Technicians all work in these separate work locations and perform all of the laboratory work there. The laboratory aides and the clerk steno perform nonlaboratory work in the general area of the laboratory of Wausau Hospital North and are part of the bargaining unit covered by the labor agreement between the Employer and Local 150. John Jones is the laboratory manager for Wausau Hospitals, Inc. and he supervises the laboratory staff at Wausau Hospital North and Wausau Hospital South.

Section 111.02(6) of the Wisconsin Statutes provides that a collective bargaining unit shall consist of "all the employees of one employer. . . , except that where a majority of such employees engaged in a single craft, division, department or plant shall have voted by secret ballot . . . to constitute such group a separate bargaining unit. . ." (Emphasis Added). Whereas the Commission has no power to determine what constitutes an appropriate collective bargaining unit under the Wisconsin Employment Peace Act, 1/ it may determine whether the particular group of employees claimed by the Petitioner as being an appropriate unit, does in fact constitute a separate craft, division, department or plant of the Employer. 2/ Furthermore, the previous determination of a unit consisting of all employees of an employer does not preclude a subsequent determination of a smaller unit if the employees so sought are in a single craft, division, department or plant. 3/ In determining whether employees are employed

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- 1/ L. Wiemann Company (181) 3/41 (Aff. Milw. Co. Cir. Ct., 6/41;)
Gimble Bros. Dept. Store (251) 6/41; Beaumont Hotel (3630) 11/53.
 - 2/ Wis. Gas & Electric Co. (118) 10/40; Gimble Bros. Dept. Store
(251) 6/41 and (356) 2/42; Normington Laundry and Dry Cleaning
(3864) 12/54; St. Michael's Hospital (8005) 4/67; Methodist
Hospital (8506-A) 7/68.
 - 3/ L. Wiemann Co. (181) 3/41; (Aff. Milw. Co. Cir. Ct., 6/41);
Blochowiak Dairy Co. 262 Wis. 280, 8/52.

in a separate craft, division, department or plant, the Commission examines their working conditions, their work locations, their duties and functions and their supervision. 4/

The Petitioner avers that the Medical Technologists and Certified Laboratory Assistants employed in Wausau Hospital - North and Wausau Hospital - South are engaged in a separate department or division and thereby, are entitled to determine for themselves whether they desire to constitute a separate collective bargaining unit. However, we note that the Employer and Local 150 initially acknowledged a distinction between the positions relevant herein and other employees of the Employer. In 1971, four years subsequent to the certification of the existing collective bargaining unit, 5/ the parties specifically excluded the Medical Technologists and Certified Laboratory Assistants from the collective bargaining unit through the process of negotiation.

The Medical Technologists and Certified Laboratory Assistants, petitioned for herein on a separate department or division basis, do not constitute all of the employees employed in the two laboratories. The previously certified collective bargaining unit represented by Local 150 has continued to include the positions of the laboratory assistants and the clerk-stenographer employed in the laboratory facilities of Wausau Hospital - North. Accordingly, we conclude that the distinction in the Medical Technologists' and Certified Laboratory Assistants' conditions of employment and community of interest has been and should continue to be based upon professional considerations rather than arbitrary departmental or divisional demarcations.

The Commission has held that craft (professional) units must consist of employees who are practitioners of the same allied craft or profession and must be primarily engaged in the performance of tasks requiring the exercise of their particular craft skills. 6/ The term "craft" as used in Section 111.02(6), was intended to comprehend any group of skilled workers whose functions have common characteristics distinguishing them sufficiently from others so as to give such group separate problems as to working conditions for which they might desire a separate bargaining agent. 7/

The duties of the position of Medical Technologist employed by Wausau Hospitals, Inc. are as follows:

"Performs various chemical, microscopic and bacteriological tests to obtain data for use in diagnosis and treatment of disease. Receives and obtains specimens for laboratory analysis. Applies techniques used in field of bacteriology, parasitology, hematology, blood bank, serology and chemical and morphological examinations. Calculates and records laboratory test data. Operates laboratory equipment. Works under supervision of laboratory manager. Instructs medical technology students on certain subjects."

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- 4/ St. Michael's Hospital (8005) 4/67; Methodist Hospital (8506-A) 7/68.
- 5/ By Commission decision 8021, (5/67), the collective bargaining unit was certified to be: "all regular full-time and regular part-time employees working twenty (20) hours or more per week but excluding supervisors, executives, confidential employees, registered nurses, professional employees and persons of a religious order."
- 6/ Winnebago Co. Hospital (6043) 7/62; City of Green Bay (6558) 11/63.
- 7/ Ray-O-Vac Company 249 Wis 111. 6/46.

All of the technologists' duties relate to laboratory testing and analyzing specimens. Accuracy and consistency in laboratory procedures is essential. Qualifications for the position include three or four years of college, majoring in Medical Technology plus the completion of a one-year internship in an approved hospital school and registration as a Medical Technologist.

The Certified Laboratory Aide:

"Assists Medical Technologists, works under their constant supervision. Performs various chemical microscopic and bacteriologic tests to obtain data for diagnosis and treatment of diseases. Receives or obtains specimens for laboratory analysis, applies techniques used in the fields of bacteriology, parasitology, hematology, blood bank, serology and chemical and morphological examination. Records laboratory results. May engage in some teaching activities. Also performs related duties. . . ."

The Certified Laboratory Aide is responsible for the accuracy of examinations, analysis and recording of laboratory tests conducted. Qualifications for the position require the completion of training in an approved school of laboratory science subsequent to high school graduation. Such training must cover the areas of biochemistry, hematology, bacteriology, parasitology, blood bank, histology, serology and record keeping.

It is apparent that the Medical Technologists and Certified Laboratory Aides all engage in the collection, examination, analysis and record keeping of medical specimens. Such functions require the application of a specific field of knowledge and set of skills which appear to be unique to the Technologists and Aides and, in our opinion, imbue the incumbents with conditions of employment and a community of interest distinct from that of other employees employed by Wausau Hospitals, Inc.

In light of their education requirements, skills, job functions and previous bargaining unit exclusion by Local 150 and the Employer, we are satisfied that the Medical Technologists and Certified Laboratory Aides constitute a separate profession and thereby, are entitled to a separate collective bargaining unit and representation if they so desire.

A question arose as to whether Erla Schuett is a supervisor. Schuett is the educational coordinator for the laboratory. She has supervisory authority over laboratory students and she supervises the educational program, but she does not supervise employees in their performance of their daily duties. Her primary functions are to coordinate the educational programs and do work in the lab. Since Schuett does not have any supervisory authority over any other employee she is not a supervisor within the meaning of the Act and she is included in the unit and as such is eligible to participate in the election.

A question also arose as to whether Marv Ann Nelson is a supervisor. Nelson is the head of the hematology work. She spends approximately 85% of her time performing hematology work. There are two or three other employees in her section to whom she makes routine assignments of work on a daily basis. However, she does little, if any, actual supervision of any employees in her section. She does prepare the rotation schedules and the call schedules for the other employees in the laboratory division and she is in charge of the laboratory when the laboratory manager is gone. Any schedules that she prepares are brought to the laboratory manager for his approval. She does no hiring or firing, although she might make some recommendations and they would be considered by the laboratory manager.

Nelson is paid more than the other section chiefs but this is primarily because of her seniority and because of the fact that she does some scheduling. She does assign the days that employees will work or not work and she can use some independent judgment. However, the major questions of supervision are decided by the laboratory manager. He decides who will get time off after discussing the matter with the section head and Nelson. The section chiefs bring their problems to the laboratory manager and not Nelson. All of the section chiefs including Nelson get the same fringes. They are part of what is called the management package and it includes special insurance on life, health insurance, salary benefits differential and travel and accident insurance. The other employees in the lab do not get those benefits. Nelson, like the other section heads appear to be a team leader as opposed to a true supervisor. Nelson does occasionally exercise some supervisory authority when the laboratory manager is absent but these occasions are not sufficiently frequent to make her a supervisor.

While the Employer contends that Nelson is not a supervisor it contends that the other section heads are supervisors. The other section heads have even less supervisory authority than Nelson. They do assign work within their section but they do no scheduling. They might make recommendations to the laboratory manager with regard to promotions and they would be given consideration. However, they are not determinative. The section heads, like Nelson, receive the management package of fringes and receive \$50 a month more than the other employees in the laboratory division. However, they are all senior employees to the other members of their section and the additional pay is more in recognition of their seniority than an indication of their supervisory authority. They spend 85-90% of their time performing the same work as the other people in their sections and their supervisory authority is limited to directing the flow of the work as it comes into the section. Accordingly, we find the section heads to be members of the bargaining unit and they should be permitted to vote in the election.

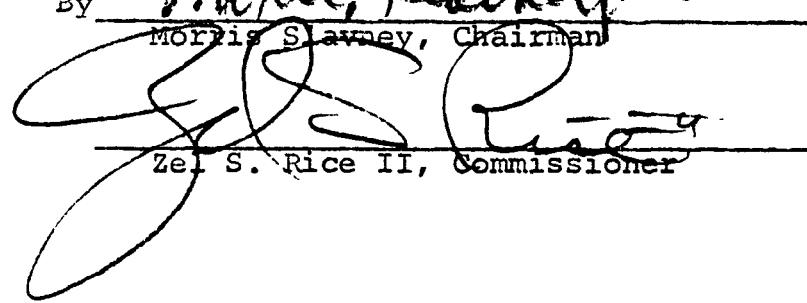
While it might appear strange to have only one supervisor in a division of 26 employees the record seems to support that. The decisions made by the section heads are relatively insignificant as far as supervising any employees are concerned and their primary function is to direct the flow of the work. Nelson, who performs the same duties as any other section head, except that she also does some scheduling and fills in for the laboratory manager when he is absent, does not make the kind of decisions with any frequency that a supervisor would be expected to make. She cannot give anyone time off although she, along with other section heads, may be consulted by the laboratory manager before he makes decisions. Whenever any problems arise the section heads refer them to the laboratory manager. Since the laboratory manager is the only one in the division who embodies the true functions of a supervisor, we find him to be the only supervisor within the division.

Dated at Madison, Wisconsin this 19th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner