

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
TEAMSTERS UNION LOCAL NO. 695  
Involving Certain Employees of  
BADGER FURNITURE COMPANY  
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Case I  
No. 18379 E-2877  
Decision No. 13194

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. Thomas P. Krukowski, appearing on behalf of Teamsters Local 695.  
Mr. Robert J. Rubin, Partner, appearing on behalf of Badger Furniture Company.

DIRECTION OF ELECTIONS

Petition having been filed with the Wisconsin Employment Relations Commission by Teamsters Union Local No. 695, requesting that an election be conducted among all truck drivers, helpers and warehousemen in the employ of Badger Furniture Company, Madison, Wisconsin, for the purpose of determining whether said employees desire to be represented by the Petitioner for purposes of collective bargaining on questions of wages, hours and conditions of employment; and a hearing having been conducted at Madison, Wisconsin, on November 6, 1974, before George R. Fleischli, Hearing Officer; and the Commission having considered the evidence and arguments of Counsel, and being satisfied that questions have arisen concerning the appropriate bargaining unit and representation for the truck drivers, helpers and warehousemen in the employ of the Employer;

NOW, THEREFORE, it is

DIRECTED


That elections 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 among all regular full-time and regular part-time truck drivers, helpers and warehousemen in the employ of Badger Furniture Company, Madison, Wisconsin, excluding supervisors and all other employees, who were employed by the Employer on December 6, 1974, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining (1) whether a majority of such employees eligible desire to constitute themselves a separate collective bargaining unit; and (2)

whether a majority of such employes voting desire to be represented by Teamsters Union Local No. 695.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Morris Slavney, Chairman

  
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

The Union filed a petition with the Commission on October 9, 1974, wherein it seeks an election among truck drivers, helpers and warehousemen, three in number, in the employ of the Badger Furniture Company, Madison, Wisconsin. At the outset of the hearing, the Employer contended that the unit requested is not an appropriate collective bargaining unit inasmuch as it does not include all of the employees of the Employer. The Employer would include its two sales employees in the unit.

The three truck drivers, helpers and warehousemen, Jim Sauk, Jeff Anderson and Merlin Stebbins report to work and perform their duties and make deliveries, out of the Employer's warehouse. The Employer operates its retail store at a separate location, two blocks from the warehouse. Sauk, Anderson and Stebbins regularly work from 8:30 a.m. to 4:30 p.m. during the weekdays, with a one hour lunch period, and 8:30 a.m. to 12 noon on Saturdays. Their normal work week consists of approximately thirty-eight hours. Sauk also works in the warehouse on Monday and Thursday nights. Sauk, Anderson and Stebbins receive wages which range from \$130 to \$150 per week. Their basic duties consist of making deliveries, loading and unloading trucks, polishing furniture, moving furniture, making repairs, and performing general clean-up work. They will perform sales work only when a customer is sent to the warehouse to view an item not yet on display at the retail store. Though Sauk will perform this sales work on the two evenings he is in the warehouse, it is rarely performed at other times by these employees. Sauk, Anderson and Stebbins report to work in general "blue collar" clothing. There are no specific qualifications required for the positions held by these three employees.

The two sales employees, Jim Broske and Del Hetue, perform their duties at the retail store and regularly work from 8:30 a.m. to 5:30 p.m. during the weekdays, with a one hour lunch period. They each receive one weekday afternoon off. On Saturdays they work from 8:30 a.m. to 5:00 p.m. Broske also works Monday and Thursday nights. They both work approximately forty-four hours per week. For their work, Broske and Hetue receive salaries, ranging from \$200 to \$210 per week. They also receive health insurance coverage. Their duties consist of basic sales and office work at the retail store. However, when needed, Broske will make deliveries and perform repair and maintenance work at the warehouse. Approximately, twenty percent of his time is spent performing such non-sales related activities. <sup>1/</sup> Broske and Hetue report for work wearing clothing suitable for salesmen. The basic qualifications required for the positions held by Broske and Hetue are experience in selling furniture, and knowledge of furniture types, brand names and availability.

All five employees are under the basic supervision of the Employer's two co-partners. They all receive paid lunch hours and one week paid vacation. There are no established practices governing discipline procedures, grievances or sick leave.

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<sup>1/</sup> No contention was made by either party that Broske ought to be included in the unit of drivers, helpers and warehousemen, if such a unit is appropriate since he is employed primarily to do saleswork.

The Commission has stated that "in determining whether employees are engaged in a separate division or department the Commission examines their working conditions, their work locations, their duties and functions, and their supervision." 2/ It is clear from the evidence herein that the drivers, helpers and warehousemen work in a separate department. The latter work less hours on a different shift schedule, they receive substantially lower wages, they perform different duties, they wear different clothing in the performance of their duties and they work at a location other than the store. While there is common supervision of the drivers, helpers, warehousemen, and salesmen, and while there exists a similarity in fringe benefits, identical vacation privileges and the same lack of a practice relating to discipline, grievances and sick leave such factors are insufficient to outweigh the factors described above compelling a determination that the drivers, helpers and warehousemen are employed in a separate department, 3/ and therefore, such employees are entitled to determine for themselves whether they desire to constitute a separate collective bargaining unit. We, therefore, have directed a unit vote to determine that question as well as the question of representation.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman



Howard S. Bellman, Commissioner

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2/ St. Michael's Hospital, Decision No. 8005, 4/67.

3/ Carr's Inc., Decision No. 52, 3/40. Commission found that truck drivers and warehousemen employed at warehouse of retail store constituted a separate department.