

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JANESVILLE JOINT SCHOOL DISTRICT NO. 1

Case XI
No. 18752 ME-1149
Decision No. 13306-A

Mr. Darold Lowe, Representative, appearing on behalf of the Union.
Mr. William Young, Director of Business Affairs, appearing on behalf of the Municipal Employer.

Janesville Public Employees, Local 523, AFSCME, AFL-CIO, having, on January 21, 1975, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested the Commission to issue a clarification of a voluntarily recognized bargaining unit consisting of certain employees of Janesville Joint School District No. 1; and, pursuant to notice, a hearing having been held in the matter at Janesville, Wisconsin, on March 4, 1975, Kay Hutchison, Hearing Officer, being present; and the Commission having considered the evidence and arguments of the parties, and being fully advised in the premises makes and files the following

That the position of Hostess is appropriately included in the collective bargaining unit consisting of all regular full-time and regular part-time employees of the Janesville Board of Education, engaged in the duties of cleaning, maintaining and repairing school buildings and school grounds and in duties of preparing and serving food under the jurisdiction of the Board, but excluding supervisors, seasonal employees, professional employees, building secretarial employees and aides.

Given under our hands and seal at the
City of Madison, Wisconsin, this 30th
day of April, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

The instant proceeding was initiated by the petition of Janesville Public Employees, Local 523, AFSCME, AFL-CIO, requesting the Wisconsin Employment Relations Commission to issue an order clarifying a voluntarily recognized collective bargaining unit consisting of certain employees of Janesville Joint School District No. 1. The position in dispute is that of Hostess which the Union, contrary to the Municipal Employer, contends should be included in the existing collective bargaining unit. The unit has been voluntarily expanded over the years to its present description as it appears in the parties' collective bargaining agreement, wherein it is set forth as:

"all regular full-time and regular part-time employees of the Janesville Board of Education engaged in the duties of cleaning, maintaining, and repairing school buildings and school grounds and in duties of preparing and serving food under the jurisdiction of the Board, but excluding supervisors, seasonal employees, professional employees, building secretarial employees and aides."

Recognition of Local 523 as exclusive collective bargaining representative for employees, who prepare and serve food, was extended by the Municipal Employer sometime prior to 1969. There are approximately 90 employees presently within the unit.

Approximately four years ago, the federal hot lunch program was expanded from the District's senior and junior high schools to the elementary schools. Whereas hot lunches are prepared and served in the senior high and junior high schools, the elementary schools offer pre-packaged meals, which are prepared and frozen by a Chicago, Illinois, food merchandising firm. The frozen meals are delivered once a week to each of the District's eleven elementary schools. Within a given elementary school, a Hostess is employed by the District to sell lunch tickets, heat meals in a convection oven and serve the warmed meals to the students. The elementary facilities also serve soup to children who bring sack lunches. The majority of the students do, in fact, carry their lunch. The Hostess is assisted by volunteers in each of the elementary schools. Hostesses work between two and three hours a day during the 177 days that school is in session. On the basis of a 40 hour work week, the Hostesses, eleven in number, are employed approximately 12 1/2 weeks per year.

The Municipal Employer provides neither Social Security nor retirement contributions for the Hostesses on the basis that they work less than 600 hours per year. The Hostesses function as hourly employees.

The Municipal Employer argues that the Hostesses do not prepare or serve food in the senior or junior high schools and, therefore, fall outside of the collective bargaining unit description. The Municipal Employer points out that the Hostesses do not work in the same location as the food preparation and service employees, who are in the unit, and that, therefore, the Hostesses do not share a community of interest with the employees presently included in the collective bargaining unit. Furthermore, the Municipal Employer argues that Hostesses work so few hours in a school year that they should be excluded as seasonal employees working less than the sixteen weeks per year as specified in the recognition clause.

The Union argues that the Hostesses are employed in the preparation and service of food and accordingly fall within the unit description set forth in the recognition clause. The Union reasons that the Hostesses are not seasonal employees in that they are regularly scheduled to work five days a week during the school year.


The Commission is satisfied that the Hostesses herein are not seasonal employees. The incumbents are employed on the same school year basis as are the employees in the collective bargaining unit. Seasonal employment is determined by the season portion of the calendar year. Furthermore, the Commission has held that if an employee is regularly employed, regardless of the number of hours worked by him, such an employee has a definite interest in the wages, hours and working conditions governing his employment. 1/

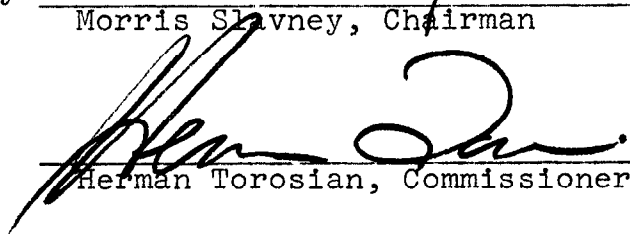
The Hostesses in the instant proceeding are employed on a regular basis for the purpose of preparing and serving food. Although they do not perform their duties in the same buildings as the other food service employees, it is apparent that there are maintenance employees employed in the elementary schools who are included in the existing unit. The diversity in location and supervision between the Hostesses and employees in the unit is no greater than that existing between the employees presently within the unit.

Based on the above and foregoing, the Commission is satisfied that the position of Hostess, created subsequent to the voluntary recognition of the Petitioner as exclusive collective bargaining representative, is appropriately included in the collective bargaining unit.

Dated at Madison, Wisconsin, this 30th day of April, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner

1/ Pavilion Nursing Home, Inc., (7932) 3/67; Prigge's Chartered Buses, Inc., (8061) 6/67.