

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	
WISCONSIN COUNCIL OF COUNTY AND	:	
MUNICIPAL EMPLOYEES, LOCAL 1258 and	:	
LOCAL 2489, AFSCME, AFL-CIO	:	Case XL
	:	No. 19168 ME-1197
For Clarification of the Collective	:	Decision No. 13670-A
Bargaining Units Consisting of	:	
Certain Employes of	:	
	:	
ROCK COUNTY	:	
	:	

Appearances:

Mr. Darold O. Lowe, District Representative, appearing on behalf of the Petitioner.

Mr. Ronald D. Link, Assistant Administrator, and Ms. Susan Steininger, Personnel Director, appearing on behalf of the Municipal Employer.

ORDER CLARIFYING COLLECTIVE BARGAINING UNITS

Wisconsin Council of County and Municipal Employees, Local 1258 and Local 2489, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission on May 16, 1975, wherein it requested the Commission clarify certain existing bargaining units to determine whether certain positions are appropriately included therein, and hearing in the matter having been conducted on July 18, 1975, before Kay Hutchison, Hearing Officer; and the Commission, having considered the evidence and arguments of the parties, being fully advised in the premises, makes and issues the following

ORDER

That the collective bargaining unit consisting of "all regular full-time and regular part-time employes of the Rock County Health Care Center, but excluding the administrators, supervisory, confidential, craft, professional and temporary employes, presently represented by Local 1258, WCCME, AFSCME, AFL-CIO, appropriately includes the position of X-ray Technician, presently occupied by Evelyn Dampier; and further, that the collective bargaining unit consisting of "all regular full-time and regular part-time clerical employes in the Rock County Courthouse (Janesville), Rock County airport, the Rock County Administrative Building (Beloit), the Rock County Youth Shelter Facility, the Rock County Department of Social Services (Public Welfare), the Rock County Highway Department, the Rock County Sheriff's Department, and all full-time and regular part-time matrons, cook-matrons, and food service supervisors of the Rock County Sheriff's Department, but excluding all confidential, supervisory, craft, professional and all other employes of Rock County", presently represented by Local 2489,

WCCME, AFSCME, AFL-CIO, appropriately includes the position of Librarian, presently occupied by Anna Smith.

Given under our hands and seal at the City of Madison, Wisconsin this *10th* day of October, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING ORDER
CLARIFYING COLLECTIVE BARGAINING UNITS

Local 1258 and Local 2489 initially requested clarification of two collective bargaining units consisting of employes of Rock County, to determine the appropriate inclusion or exclusion of the positions of X-ray Technician, Librarian and County Court Reporter from said units. During the course of the hearing, the Union amended its petition and agreed to the appropriate exclusion of the Court Reporter from the clerical unit represented by Local 2489.

X-ray Technician

The Municipal Employer, contrary to the Union, contends that the position of X-ray Technician, also known as Radiologic Technologist, is occupied by a professional employe and therefore should be excluded from the Health Care Center unit represented by Local 1258.

The Radiologic Technologist is required to have satisfactorily completed formal radiologic technology training in an AMA approved school and have the ability to meet the requirements for registry by the American Registry of Radiologic Technologists. Such training must be obtained through a two-year course of study in a school affiliated with a general hospital or through a vocational school. The incumbent must successfully pass the National X-ray Technician Examination and must be eligible or possess a license from the State of Wisconsin.

The X-ray Technician works under the supervision of the Supervisor of Out-Patient Services at the Pinehurst Out-Patient Clinic. The duties include the taking and processing of X-rays, per written order of a physician or charge nurse, primarily in Rock County's Pinehurst and Rock Haven facilities, and, the performance of clerical duties in preparation for the diagnostic interpretation, filing and maintenance of X-rays and patient records. The X-ray Technician is responsible for ordering X-ray supplies and for performing general housekeeping duties in the department. The position has responsibility for all incoming and outgoing X-rays. On occasion, the X-ray Technician assists in programs conducted by the Wisconsin Tuberculosis and Respiratory Disease Association in nursing homes and local industries.

One of the two job descriptions submitted for the position during the course of the hearing, described the nature of the X-ray Technician's work as follows:

"This is skilled technical work involving radiology at the Pinehurst out-patient clinic and throughout the county.

Work involves taking and developing radiographs, the maintenance of care of the equipment used, and the keeping of related records. Although the work is repetitive in nature, it involves performing a variety of types of radiographic photography and requires a knowledge of the use of equipment, density of the body and its anatomical terminology, as well as ingenuity and initiative to apply prescribed radiation for radiologic diagnosis. Work is performed in accordance with established procedures of the department. Work is reviewed upon completion, for quality of results obtained."

The Municipal Employer argues that the work of the X-ray Technician is intellectual and varied, and that the position requires discretion, in that the X-ray Technician is not supervised by an individual trained in the field of radiology. Furthermore, the Municipal Employer contends that the position requires two years advanced training obtained either

in a hospital setting affiliated with a four year college or in an associate degree granting institution such as a vocational school. There is presently only one employe employed as an X-ray Technician, namely Evelyn Dampier.

The Municipal Employment Relations Act defines a professional employe as:

- "1. Any employe engaged in work:
 - a. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;
 - b. Involving the consistent exercise of discretion and judgment in its performance;
 - c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
 - d. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process; or
2. Any employe who:
 - a. Has completed the courses of specialized intellectual instruction and study described in subd. 1. d;
 - b. Is performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in subd. 1."

In Marinette General Hospital (9926) 9/70, the Commission held that:

"It is also clear that Radiologic Technologists are not professional employes. While it is true that they exercise some special skills, their work consists primarily of following the accepted procedures in operating X-ray equipment according to the specific orders of doctors and does not require creative thought or judgement for the exercise of wide discretion. It is also true that they possess some special training but that training is not so substantial or of such an academic nature as to qualify them for professional status . . . Neither of the Technologist in the petitioned for unit herein, have completed such a lengthy program of study and training [Bachelor of Science degree in the field of Radiologic Technology] or perform work of such a nature as to establish that they are professionals within the meaning of that term as it has been applied under Section 111.70 of the Wisconsin Statutes."

The Commission is satisfied that the position of X-ray Technician, presently occupied by Evelyn Dampier, is not professional. The position does not require a prolonged course of advanced study as envisioned by the statutory definition of "professional employe". Furthermore, the X-ray Technician's duties appear to be basically routinized in terms of skills and functions. The X-ray Technician works at the direction of a physician or charge nurse. The X-ray work is reviewed for its quality. In addition, a large segment of the positions' duties relate to routine clerical functions of filing and maintaining patient records. Accordingly, we have concluded that the position of X-ray Technician is appropriately included in the collective bargaining unit consisting of all regular full-time and regular part-time employes of the Rock County Health Care Center, but excluding the administrators, supervisory, confidential, craft, professional and temporary employes.

Librarian

Anna M. Smith is employed as the Librarian and Bookkeeper in the Special Education Instructional Materials Center in the County's Glen Oaks School for Trainable Mentally Handicapped. Her position is entitled Librarian. There are thirty-five teachers employed in the facility. Ms. Smith spends approximately 60% of her working time performing office-clerical duties, 20% of her time on library related work, and 20% of her time on library bookkeeping tasks.

Ms. Smith answers the telephone for the Glen Oaks School and records and delivers messages to the Principal and teachers. On occasion, she may stand in for teachers receiving emergency telephone calls and may perform typing duties for the Principal.

The Librarian provides teachers with instructional materials for individual and classroom teaching. Ms. Smith orders, labels, shelves and cross-indexes new library materials. She loans and retrieves such materials and operates audio-visual equipment. She trains a library helper whose position is funded by the WINN program. She has contact with parents and professionals in the Special Education Departments in nine school systems and provides information concerning available instructional materials.

Ms. Smith's bookkeeping duties relate to the operation of the Special Education Instructional Materials Center (SEIMC). She drafts annual evaluations of federal and local projects. Ms. Smith authors proposals to secure supplemental Federal financial aid for educational materials, library expenses and inservice training. The Librarian devises the schedule for the Media Teacher. The incumbent issues checks for payment of operational expenditures and for instructional materials. In addition, she prepares a monthly or semi-monthly newsletter concerning SEIMC activities and handles correspondence for the Center. Ms. Smith works on the preparation of the annual SEIMC budget for approval by its advisory board.

Ms. Smith works under the supervision of Donald Upson, the Administrator for the Handicapped Children's Board. Mr. Upson, whose office is located in the Courthouse, approves and signs purchase orders and reviews the Center's budget, expenditures and fiscal books.

Ms. Smith does not hold a degree in library science but has earned a number of college credits relating to the field. The County avers that the Special Education Library, under the guidance of Ms. Smith, has expanded to the point that subsequent occupants of Ms. Smith's position would be required to possess a college degree in library science and media and to hold a valid Librarian Certificate.

In administering Section 111.70(1)(1) of MERA which defines "professional" employe, the Commission looks behind the job title of a disputed position and examines the duties and responsibilities of the incumbent in order to determine whether it is appropriately included in a collective bargaining unit. The Commission has in most instances, found the position of "Librarian" to be professional on the basis of completion of a prolonged course of study and certification. However, designation of the title "Librarian" does not eliminate the necessity of examining the preparation for and duties of the job itself.

In the instant proceeding, the Librarian is neither certified nor extensively trained in library science. Furthermore, it is apparent from the record that 60% of Ms. Smith's working time is spent performing clerical duties for the Glen Oaks facility. The remainder of her working time is devoted to the maintenance and operation of the Special Education Instructional Materials Center.

Although Ms. Smith exercises a degree of discretion and self-initiative, the Commission is satisfied that the preponderance of her duties are routine and clerical. Ms. Smith's educational background is not related to the profession of library science. Accordingly, we have concluded that the position of "Librarian" occupied by Anna Smith is appropriately included in the collective bargaining unit consisting of various clerical employes of Rock County. In the event that Ms. Smith's successor is a professional, certified Librarian, that employe would fall within the professional employe exclusion and would not be included in the collective bargaining unit herein.

Dated at Madison, Wisconsin this *10th* day of October, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

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