

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
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CITY OF WISCONSIN RAPIDS	:	Case XVII
	:	No. 19357 DR(M)-63
and	:	Decision No. 13814-A
	:	
WISCONSIN RAPIDS PROFESSIONAL	:	
POLICEMEN'S ASSOCIATION	:	
	:	
For a Declaratory Ruling	:	
	:	

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DECLARATORY RULING

City of Wisconsin Rapids and Wisconsin Rapids Professional Policemen's Association having on July 14, 1975 filed a stipulation wherein they petitioned the Wisconsin Employment Relations Commission to issue a Declaratory Ruling regarding the duty to bargain on a grooming code which was unilaterally implemented by the Chief of Police; and hearing having been conducted before George R. Fleischli, a member of the Commission's staff, on August 4, 1975; and the Commission having considered the evidence and arguments adduced by the parties and being fully advised in the premises, makes and files the following Findings of Fact, and Declaratory Ruling.

FINDINGS OF FACT

1. That Wisconsin Rapids Professional Policemen's Association, hereinafter referred to as the Association, is a labor organization that maintains its offices at Wisconsin Rapids, Wisconsin.
2. That the City of Wisconsin Rapids, hereinafter referred to as the Municipal Employer, has its offices at Wisconsin Rapids, Wisconsin.
3. That the Association, at all times material herein, has been and is the collective bargaining representative for all non-supervisory police personnel in the employ of said Municipal Employer.
4. That on June 27, 1975 the Chief of Police unilaterally promulgated a grooming code which is designed to establish standards and specifications for employes of the Police Department including those represented by the Association with respect to haircut styles and in the wearing of mustaches and beards; and that employes who violate said code are subject to disciplinary measures.
5. That the Association and Municipal Employer jointly filed a stipulation for a declaratory ruling requesting the Commission to determine whether the establishment and content of said grooming code was a mandatory subject of bargaining pursuant to Section 111.70(1)(d) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

DECLARATORY RULING

That the establishment of a grooming code of the type in question and its content has a direct and intimate impact on the working conditions of the employes covered by such code and is a mandatory subject of collective bargaining over which a Municipal Employer has a duty to bargain collectively within the meaning of Section 111.70(1)(d) and Section 111.70(3)(a)4 of the Municipal Employment Relations Act.


Given under our hands and seal at the City of Madison, Wisconsin this 2nd day of March, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
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Morris Slavney, Chairman

  
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Howard S. Bellman, Commissioner

  
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Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DECLARATORY RULING

The Municipal Employer's Chief of Police unilaterally promulgated a grooming code on June 27, 1975. The Association takes the position that the decision to establish said grooming code and its content affected the wages, hours and working conditions of the non-supervisory law enforcement personnel which it represents. The Association argues that:

- (1) Under the Municipal Employment Relations Act the Municipal Employer had a duty to bargain over the establishment of and content of the grooming code in question;
- (2) Under the agreement between the parties the Employer had no right to unilaterally implement the grooming code in question; and
- (3) The grooming code in question violates the constitutional rights of the employes that it represents.

The establishment of standards and specifications for employes of the Police Department with respect to haircut styles and the wearing of mustaches and beards is a condition of employment for all the employes of the Police Department in that it prescribes the personal appearance that must be maintained during hours of employment. Because of the nature of the restrictions imposed, it has an impact on the employes both on and off duty. Inextricably intertwined within the grooming code is a proviso that any violation of the code can result in disciplinary action. Refusal to conform to the grooming code could ultimately lead to termination of one's employment.

The provisions of the code are literally a condition of employment in that to maintain uninterrupted and harmonious employment as a member of the Police Department, one must adhere to the code. Therefore, the Association has the right to bargain collectively and the Municipal Employer has a mandatory duty to bargain collectively within the meaning of Section 111.70(1)(d) and 111.70(3)(a)4 of MERA with respect to the establishment of and content of the grooming code.

The scope of this declaratory ruling is confined to the issue relating to the duty to bargain about the establishment of and content of a grooming code of the type in question, and does not address the issue of the effect of the existing collective bargaining agreement on that duty in this case.

It would appear that the parties, in their collective bargaining agreement have a procedure for implementing rules regarding personal appearance, but are unable to agree as to its application to the facts in this case. The collective bargaining agreement, in Article XX, provides for a grievance procedure including binding arbitration. The parties should utilize that procedure in order to establish the meaning of their collective bargaining agreement as to the issue involved herein.

Finally, the Commission is not the appropriate forum to resolve constitutional questions and consequently will not comment on the constitutionality of the grooming code.

Dated at Madison, Wisconsin this 2nd day of March, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Thomas Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

Herman Torosian  
Herman Torosian, Commissioner