

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

VILLAGE OF SHOREWOOD

Case XI  
No. 19815 ME-1261  
Decision No. 14262

Mr. Fred Hammer and Mr. Michael Enea, Representatives, appearing on behalf of the Intervenor.

Milwaukee District Council 48, AFSCME, AFL-CIO, hereinafter referred to as the Petitioner, having, on September 10, 1975, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among certain employees of the Village of Shorewood, to determine whether said employees desire to be represented by said Petitioner for the purpose of collective bargaining; and a hearing on such petition having been held at Milwaukee, Wisconsin on December 30, 1975, Stanley H. Michelstetter II, Hearing Officer, being present; and during the course of said hearing Chauffeurs, Teamsters and Helpers "General" Local 200 of the I.B. of T.C.W. & H. of A. having been permitted to intervene in the matter, without objection from either party, on the basis that it is presently the representative of the employees involved; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation of certain employees of said Municipal Employer;

DIRECTED

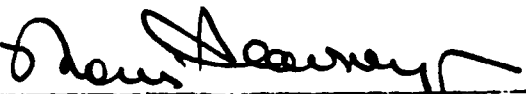
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within ninety (90) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time 1/ employees of the Village of Shorewood Department of Public Works, except office employees, the Superintendent of Public Works, the Assistant Superintendent of Public Works, and the Superintendent of Water Distribution, who were employed by the Village of Shorewood on December 30, 1975, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether such employees desire to be repre-

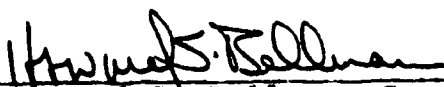
1/ The parties stipulated that the Municipal Employer employs no regular part-time employees.

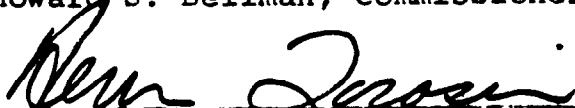
sented by Milwaukee District Council 48, AFSCME, AFL-CIO, or by Chauffeurs, Teamsters and Helpers "General" Local 200 of the I.B. of T.C.W. & L. of A., or by neither of said organizations, for the purpose of collective bargaining with the Village of Shorewood.

Given under our hands and seal at the City of Madison, Wisconsin this 19th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Morris Slavney, Chairman

  
Howard S. Bellman, Commissioner

  
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

While the Municipal Employer does not employ any regular part-time employees, during the summer it employs seasonal employees, and on occasion a mason contractor and a sidewalk superintendent. The mason contractor and sidewalk superintendent are casual employees, and since the summer employees are seasonal employees and not regular full-time employees, both the occasional employees and the seasonal employees are properly excluded from the unit.

The petition herein was filed on September 10, 1975. On September 11, 1975, the Commission, in writing, advised the Petitioner that the petition should have been supported by a showing of interest in order to warrant further processing of the petition, since there was in existence a collective bargaining agreement between the Municipal Employer and the Intervenor, which, by its terms, was effective from January 1, 1975, through December 31, 1975. Said agreement did not contain a date upon which the agreement could be reopened for negotiations on a succeeding agreement. The Petitioner filed its showing of interest on November 12, 1975.

Intervenor argues that it historically has given notice of its intent to reopen the then existing collective bargaining agreement for the negotiation of a successor agreement approximately on September 15 of each year and that negotiations normally would commence in October. On September 2, 1975, the Intervenor mailed a document to the Municipal Employer indicating a desire to reopen the existing agreement. Said document was received by the Municipal Employer on September 4, 1975. The first negotiations between the Intervenor and the Municipal Employer occurred on November 19, 1975. The Intervenor further contends that, since the showing of interest was filed on November 12, 1975, the petition should be deemed to have been filed on the latter date and that since the notice of reopening of the agreement was received by the Municipal Employer prior to the latter date, the notice of reopener constitutes a bar to the present processing of the petition.


In view of the aforesaid facts, and inasmuch as the collective bargaining agreement herein contained no provision setting forth the date on which said agreement may be reopened, the petition filed by the Intervenor is deemed timely filed. 2/

Since the collective bargaining agreement did not contain a reopening date, the fact that the showing of interest did not accompany the filing of the petition does not affect our determination as to whether the petition was timely filed. Therefore, we have issued our Direction of Election in the matter.

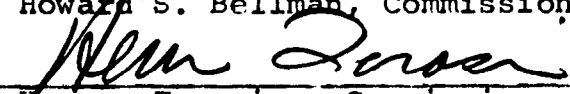
Dated at Madison, Wisconsin this 19th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Howard S. Bellman, Commissioner

  
Herman Torosian, Commissioner