

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

DRIVERS, SALESMEN, WAREHOUSEMEN, MILK
PROCESSORS, CANNERY, DAIRY EMPLOYEES
AND HELPERS UNION LOCAL 695, a/w
I.B.T.C.W. & H. OF A.

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Case XXXVI
No. 20337 MIA-236
Decision No. 14534-A
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For Final and Binding Arbitration
Involving Certain Employees in the
Employ of

WAUKESHA COUNTY (SHERIFF'S DEPARTMENT)

Appearances:

Goldberg, Previant & Uelmen, S.C., Attorneys at Law, by Mr. Kenneth R. Loebel, Esq., appearing on behalf of the Union.
Michael, Best & Friedrich, Attorneys at Law, by Mr. Marshall R. Berkoff, appearing on behalf of the County.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

Drivers, Salesmen, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union, Local 695, a/w I.B.T.C.W. & H. of A. having on March 23, 1976, filed a petition with the Wisconsin Employment Relations Commission requesting that the commission initiate compulsory final and binding arbitration, pursuant to Section 111.77 (3)(b) of the Municipal Employment Relations Act (MERA), for the purpose of resolving an impasse arising in collective bargaining between the petitioner and the County of Waukesha, on matters affecting the wages, hours, and conditions of employment of civilian radio dispatchers and correctional officers in the employ of said municipal employer; and a hearing having been conducted on May 10, 1976 in Waukesha, Wisconsin, before Peter G. Davis, Hearing Officer and the Commission being fully advised in the premises, makes and files the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. That Drivers, Salesmen, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union Local 695, a/w I.B.T.C.W. & H. of A., hereinafter referred to as the petitioner, is a labor organization having its offices at 1314 North Stoughton Road, Madison, Wisconsin.
2. That the County of Waukesha is a municipal employer having its offices in Waukesha, Wisconsin.
3. That at all times material herein the petitioner has been, and is, the voluntarily recognized collective bargaining representative of certain civilian radio dispatchers and correctional officers employed by the municipal employer.
4. That on March 23, 1976, the petitioner filed a petition with the Wisconsin Employment Relations Commission, requesting that the Commission initiate final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act, with regard to an impasse alleged to exist between the parties with respect to wages,

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hours and conditions of employment of certain civilian radio dispatchers and correctional officers.

5. That the civilian radio dispatchers and correctional officers covered by the instant petition for final and binding arbitration do not have the power of arrest.

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

CONCLUSION OF LAW

That the civilian radio dispatchers and correctional officers employed by the Waukesha County (Sheriff's Department) are not law enforcement personnel within the meaning of Section 111.77 of the Municipal Employment Relations Act.

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

ORDER

That the petition of Drivers, Salesmen, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union Local 695, a/w I.B.T.C.W. & H. of A. for final and binding arbitration involving civilian radio dispatchers and correctional officers in the employ of Waukesha County (Sheriff's Department) be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin this 1st
day of November, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

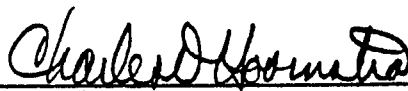
By



Morris Slavney, Chairman



Herman Torosian, Commissioner



Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER

Section 111.77 of the Municipal Employment Relations Act (MERA) provides final and binding arbitration as a mechanism for the resolution of impasses in collective bargaining between municipal employers and their "law enforcement personnel" and firefighters. The petition filed herein raises the issue of whether civilian dispatchers and correctional officers who lack the power of arrest can utilize this statutory procedure to resolve an alleged impasse with the County of Waukesha. In essence the question is one of determining whether said employees qualify as "law enforcement personnel" within the meaning of MERA.

In a series of cases arising both before and after the enactment of section 111.77 of MERA, the commission consistently has held that only those employees of a police department or sheriff's department who perform duties related to the law enforcement function and who have the powers of arrest will be found to be "law enforcement personnel." 1/ As we indicated in a recent case involving this same municipal employer 2/, that interpretation is based in large part on the definition of law enforcement personnel found elsewhere in the statutes and has been unaffected by the subsequent enactment of section 111.77 of the Wisconsin Statutes providing for final and binding arbitration of labor disputes involving such personnel. There is no reason to suppose that the legislature in enacting section 111.77 intended to modify the definition previously adopted and followed consistently by the commission.

The record establishes that the dispatchers provide communication services for the sheriff's deputies while the correctional officers perform rehabilitation functions and maintain discipline at the municipal employer's correctional facilities. The record also reveals that sheriff's deputies perform both of these functions in addition to their other duties. While it has thus been established that the employees in question perform functions in support of law enforcement, the record unequivocally indicates that dispatchers and correctional officers lack the power of arrest. On that basis, the commission must conclude that said individuals are not "law enforcement personnel" within the meaning of section 111.77 of MERA and thus that they lack the right to proceed to final and binding arbitration pursuant to said statute. Therefore the petition has been dismissed.

Dated at Madison, Wisconsin this 1st day of November, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman
Herman Torosian
Herman Torosian, Commissioner
Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

1/ See e.g. City of Greenfield (Police Dept.), (7252) 8/65; City of Milwaukee (Police Dept.), (8605) 7/68; and Village of Fox Point, (9959-A) 2/71 prior to the enactment of section 111.77 in 1971. See e.g. Douglas County, (10993) 5/72; City of Monroe, (11580) 2/73; City of Wauwatosa, (12032) 6/73; City of Menomonee Falls, (13159-A) 5/75; City of Burlington, (13777) 6/75, since the enactment of section 111.77.

2/ Waukesha County, (14830) 3/76.