

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
: BROOKFIELD PROFESSIONAL FIREFIGHTERS : Case XVI
ASSOCIATION LOCAL 2051 : No. 19821 ME-1262
: Decision No. 14667
Involving Certain Employees of :
: CITY OF BROOKFIELD (FIRE DEPARTMENT) :
: -----

Appearances.

Mr. Edward Durkin, District Vice President, International Association of Firefighters, on behalf of Brookfield Professional Firefighters Local 2051.
Hayes and Hayes, Attorneys at Law, by Mr. Tom E. Hayes, Esq., on behalf of the City of Brookfield (Fire Department).

ORDER CLARIFYING BARGAINING UNIT

Brookfield Professional Firefighters Association Local 2051, herein referred to as the Association, having filed a petition with the Wisconsin Employment Relations Commission, herein referred to as the Commission, wherein it requested that the Commission determine whether two of the three Captains employed by the City of Brookfield (Fire Department), herein referred to as the City, should be included or excluded from an existing collective bargaining unit consisting of "all Fire Department Employees of the City of Brookfield excluding only the Chief and Captains"; and hearing on said petition having been held on December 29, 1975, at Milwaukee, Wisconsin before Hearing Officer, Amedeo Greco; and the parties having waived the filing of briefs; and the Commission having considered the petition, and the record and the arguments of the parties;

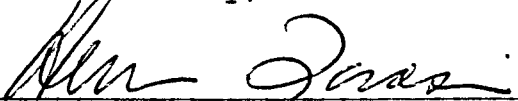
NOW, THEREFORE, it is

ORDERED

That all Captains employed by the City of Brookfield Fire Department should be excluded from the existing collective bargaining unit which consists of Firefighters below the rank of Captain.

Given under our hands and seal at the City of Madison, Wisconsin this 9th day of June, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Morris Slavney, Chairman

Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

The Association asserts, contrary to the City, that Captains Griswold and Kingstad should be included in the existing collective bargaining unit. The Association acknowledges, in agreement with the City, that a third Captain, Wichser, should be excluded from the unit because he is a supervisor.

In determining whether the petitioned-for Captains should be either included or excluded from the unit, the Commission is bound by the statutory definition of firefighting supervisory personnel set forth in Section 111.70(1)(c)2 of ILRA which provides:

"(c) "Supervisor" means.

. . . .

2. As to firefighters employed by municipalities with more than one fire station, the term 'supervisor' shall include all officers above the rank of the highest ranking officer at each single station. In municipalities where there is but one fire station, the term 'supervisor' shall include only the chief and the officer in rank immediately below the chief. No other firefighters shall be included under the term 'supervisor' for the purposes of this subchapter.

. . . ."

The City maintains two fire stations, hereinafter referred to as Stations No. 1 and 2 respectively. The Fire Department's complement consists of approximately 42 employees, with 1 Chief, 3 Captains, 6 Lieutenants, and 31 Firefighters, and 1 inspector. The department is on a three shift operation, with each shift consisting of 24 hours. Captains Wichser, Griswold and Kingstad are respectively assigned to shifts 1, 2 and 3 and work out of Station No. 1. Each is required to visit Station No. 2 at least once during their tour of duty so as to be thoroughly familiar with its operations. In addition to the Captains, each shift has about 12 Firefighters on duty, seven of whom are assigned to Station No. 1, and five to Station No. 2. There are always two Lieutenants on duty for each shift, one at each station.

The record also establishes that all three Captains are the commanding officers on their shifts, that each is in charge of the Department when the Chief is not present, and that, in his absence, each has the same authority as the Chief, who is on duty 8 hours per day. 1/ For this reason, the Commission concludes that the three

1/ The senior Captain, Wichser, is acting Chief when the Chief is on vacation or ill and aids in the preparation of the budget. Because of this difference in duties he is paid \$12 per month more than the other two Captains.

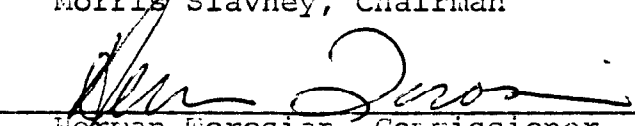
Captains, are supervisors under Section 111.70(1)(0)2 of MERA, supra, 2/
Accordingly, the existing bargaining unit shall be clarified to reflect
their exclusion.

Dated at Madison, Wisconsin this 9th day of June, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman


Herman Torosian, Commissioner

2/ See for example, City of Menasha (Fire Department) XXIII, Decision No. 12725 (5/74). The facts in this case are distinguished from those in City of Janesville (Fire Department) Decision No. 12460-A, 5/7/74. In that case there was a rank above the rank of Captain, that of Battalion Chief. Although the three captain's in that case were located at Station No. 1 the record did not support a finding that they had department-wide responsibilities.