

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF NEW BERLIN

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Case XXIII
No. 19744 ME-1253
Decision No. 14939

Mr. Robert W. Lyons, Representative, for AFSCME.

NOW, THEREFORE, it is

"all regular full-time and all regular part-time office, clerical, technical and related occupational positions, professional library employes and craft employes, but excluding professional engineers, elected officials, department heads, police department office

2/ City of New Berlin (13173).

manager and other supervisors, confidential employes, managerial employes, seasonal employes and employes employed in previously certified bargaining units."

Given under our hands and seal at the
City of Madison, Wisconsin this 28th
day of September, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING ORDER AMENDING CERTIFICATION

Petitioner seeks to exclude the office manager from the instant unit on the basis of her alleged supervisory authority over certain civilian employees in the police department. As a result of substantial changes in the police department in the last few years in dispatching equipment and operation, petitioner has steadily increased chief dispatcher Irene Lorbiecki's authority over the training, direction, assignment and discipline of its enlarged civilian staff, now consisting of three dispatchers, two clerk-dispatchers, one clerk-typist, and one full-time and two part-time cadets. Petitioner created the position of office manager 3/ shortly prior to the hearing to carry on the duties of the chief dispatcher at an even higher responsibility level. The 1976 bi-weekly wage range specified in the parties' collective bargaining agreement for the chief dispatcher is \$306.54 to \$335.82, which is equivalent to a \$7970.04 - \$8731.32 annual wage range. The 1976 annual wage range for the office manager is \$11,000 to \$14,375.

Dispatchers, clerk-dispatchers 4/ and cadets 5/ work 5-2, 4-2 schedule, with one of each classification assigned to each of three consecutive eight hour shifts. Dispatchers and clerk-dispatchers both have a 1976 bi-weekly wage range of \$269.55 to \$300.42. Dispatchers operate the two-way shortwave radio, teletype, telephone switchboard and, when the police department is closed to the public, the video cameras at the entrance. Clerk-dispatchers perform assigned clerical and filing tasks, act as dispatcher in the absence thereof, receive funds and complaints at the counter. Cadets handle the counter operation or fill in for the dispatcher in the absence of both the dispatcher and clerk-dispatcher. The clerk-typist is responsible for the day shift's higher volume of paper work and fills in for the dispatcher only for shift periods.

Like the chief dispatcher, the office manager works during the day shift, Monday through Friday, with a one hour overlap with the second shift, working different or additional hours as she, herself deems necessary. Lorbiecki is now a member of the department's training committee. As the person with intimate knowledge of dispatching and clerical operations, she is receiving increasing responsibility for the development, implementation and evaluation of all civilian training (dispatching and clerical) programs. She personally conducts all civilian training conducted on the petitioner's premises. She spends two weeks training each of the approximately two civilian employees hired annually. She then schedules herself to observe the new employees on their permanently assigned shift. Additionally, she annually reschedules each existing civilian employee to the first shift for two weeks of retraining and evaluation. Lorbiecki also oversaw the installation of the automated record system, developed implementation methods and trained employees in its use.

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- 3/ As of the date of hearing a recommendation had been made to the petitioner's Common Council to have Lorbiecki fill the newly created position. After hearing, the parties stipulated Lorbiecki had been appointed to the new position and that the position of chief dispatcher is now unfilled. Lorbiecki had performed most of the new duties of the office manager position on an experimental basis prior to hearing.
- 4/ The clerk-typist is assigned to the day shift in place of a clerk-dispatcher.
- 5/ The day shift cadet is full-time, while the cadets on the other two shifts are part-time.

Lorbiecki is responsible with the police sergeant in charge of each shift for the discipline of civilian employees. On the basis of her detailed observation of their clerical and other work, she makes a quarterly written evaluation of each civilian employee. She discusses negative evaluations with employees and has the authority to adjust an employee's work responsibilities, to require further training, or to recommend discipline beyond the verbal warning. She has, in fact, made adjustments in assignments and on other occasions verbally reprimanded employees. If she were to recommend discipline beyond verbal reprimands it would be routinely followed by the sergeant and higher command. 6/

Lorbiecki spends approximately one-fourth to one-third of her total time overseeing and coordinating civilian employee work. She has the responsibility of knowing the detail of all record keeping procedures, the nature of information derivable therefrom, its probable availability, and the precise work assigned to each civilian employee. Accordingly, she is the person higher management turns to for such information. She is the only person authorized to assign clerical work to civilian employees and, by virtue of the above responsibility, is immediately aware of the quantity and quality of their performance.

Similarly the office manager is solely responsible for scheduling of all civilian employees. She approves all vacation or other leave requests, adjusts employee schedules when she concludes deviations from routine are warranted, and calls in employees for overtime work to replace absent employees. Only in very rare situations does she fill-in for an absent dispatcher.

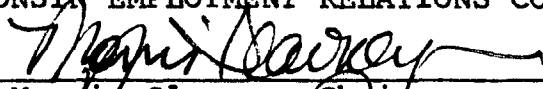
Petitioner assigned Lorbiecki the responsibility for accounting procedure for all funds received and distributed by civilian workers and they are accountable to her for these monies. She developed such forms and procedures and now spends twenty percent of her time accounting for funds handled on all shifts. She spends an additional twenty percent of her time handling front desk operations on the day shift (including receipt and disbursement of funds) which work is also performed by other civilian employees.

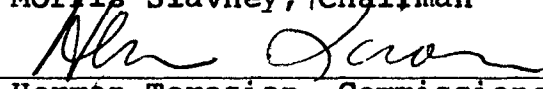
On the basis of the above and the record as a whole the commission concludes that the office manager has the authority to assign and direct the work of civilian employees, evaluate said employees, and to effectively recommend their discipline, and that the exercise of such authority is not merely routine or of a clerical nature, but requires the use of independent judgement. On that basis we conclude that she is a supervisor within the meaning of Section 111.70(1)(b) 7/ of the Municipal Employment Relations Act. We have amended the unit certification accordingly.

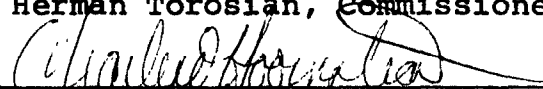
Dated at Madison, Wisconsin this 28th day of September, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Charles D. Hoornstra, Commissioner

6/ Although sergeants must agree that discipline beyond verbal warning is appropriate, the office manager determines what the discipline shall be. Since the sergeants are regularly on patrol, they are not familiar with most aspects of civilian employee performance.

7/ City of Milwaukee (11971) 7/73 at p. 17.