

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
BROWN COUNTY DEPARTMENT OF
SOCIAL SERVICES
PARA-PROFESSIONAL EMPLOYEES
UNION

Case 35
No. 40524 ME-261
Decision No. 15681-C

Involving Certain Employees of
BROWN COUNTY (DEPARTMENT
OF SOCIAL SERVICES)

Appearances:

Mr. Ken Bowman, Evans, Venci, Camilli and Bowman, Attorneys at Law,
140 South Madison Street, Green Bay, WI 54301, on behalf of the
petitioning Union.

Mr. Kenneth J. Bukowski, Corporation Counsel, Northern Building,
305 East Walnut Street, Green Bay, WI 54305-5600, on behalf of
Brown County.

FINDINGS OF FACT, CONCLUSION OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

Brown County Department of Social Services Para-Professional Employees Union, hereafter the Union, having on April 26, 1988 filed a petition requesting that the Wisconsin Employment Relations Commission clarify a collective bargaining unit of "all non-professional employees employed by Brown County (Department of Social Services) but excluding the director, supervisory and confidential employees and all professional employees", to include the position of Training Specialist in the unit; and hearing on the petition having been conducted at Green Bay, Wisconsin on May 31, 1988 before Hearing Examiner Sharon Gallagher Dobish; and a stenographic transcript of the proceedings having been prepared and received on July 1, 1988; and the parties having filed briefs by August 1, 1988 which were thereafter exchanged through the Examiner; and the Commission having considered the evidence and the arguments of the parties, and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Brown County, hereafter the County, is a municipal employer and has its offices at the Northern Building, 305 East Walnut Street, Green Bay, Wisconsin 54305-5600.

2. That the Brown County Department of Social Services Para-Professional Employees Union, hereafter the Union, is a labor organization and has its offices at 111 North Jefferson Street, Green Bay, Wisconsin 54301.

3. That in Brown County (Department of Social Services) Dec. No. 15681 (WERC, 8/77) the Commission certified the Union as the exclusive collective bargaining representative of the following employees of the County:

all non-professional employees employed in Brown County
(Department of Social Services), but excluding the Director,
supervisory and confidential employees and all professional
employees.

4. That Brown County's Department of Social Services contains a division which handles Income Maintenance (IM) cases for low income families and families with dependent children; that the County's organizational chart shows that immediately under the Social Services Director is IM Manager James Waldo, whose job it is to run the County's IM Division; that directly answerable to Waldo are

the Quality Assurance Specialist (QAS) and the Training Specialist (TS), the TS being the sole position at issue in this case, currently occupied by Amy Komis; that the QAS's primary function is to detect problems in employee performance and to pass on that information to IM Supervision so that action can be taken thereon; that the County's organizational chart also indicates that three IM Assistants are assigned to Komis but these same IM Assistants are also assigned to IM Supervisor Jorgensen; that beneath the QAS and the TS on the County's organizational chart are undisputed IM supervisory employees: two IM Supervisors, one Clerical Supervisor and one Special Investigations Supervisor; that these IM supervisory employees are supervised directly by Waldo, not by the QAS or the TS; that IM Supervisor Jorgensen supervises eight IM Workers and three IM Assistants currently in training with the TS; that IM Supervisor James Foss supervises twelve IM Workers; that the Clerical Supervisor supervises eleven clerical employees; that the Special Investigations Supervisor supervises two Fraud Investigators; that the County's organizational chart also indicates that IM Manager Waldo is responsible for supervising contract services programs (not involved here) such as General Relief programs, Low Income Energy Assistance and IM Protective Payee programs.

5. That in September, 1987, IM Manager Waldo proposed to eliminate two IM Lead Worker positions and to create the TS position and one new IM Worker position; that the goals of this proposal were to:

1. Provide IM workers some relief from high workload by improved training and reducing caseloads.
2. Decrease errors and maximize IM worker ability by improved and specialized training.
3. Maintain IM Supervisory support to enable adequate supervision of larger than an optimum number of people;

that Waldo proposed that the TS would assume the duties of training IM Workers formerly performed by the IM Lead Workers and stated that the TS position would be "a full time position assigned the specialized responsibility of training" which would provide "much needed specialized support activity to the two IM Supervisor positions"; that Waldo's proposal listed the TS's duties as follows:

1. Develop, implement and maintain a training program for new workers.
2. Provide retraining to experienced employees identified by the Quality Assurance Process as requiring strengthening of specific performance areas. Develop a training program for each IM Division employee to maximize staff capabilities and minimize reliance on the need for more staff.
3. Participate in policy and procedure development as a member of the IM Administrative Team.
4. Be responsible for maintaining the IM Division internal policy/process manual which is necessary for obtaining the highest quality performance.
5. Maintain a record of actions occurring in IM Administrative Team meetings to enhance management efforts and quality performance.
6. Work closely with Supervisors and Quality Assurance Specialist to identify and analyze Division performance areas requiring upgrading.
7. Participate with IM supervisors in answering IM worker questions.
8. Participate in unit meetings to provide the ongoing training activity necessary to upgrade performance.
9. Maintain individual employee training records and coordinate participation in outside training;

that the County Board approved Waldo's proposal and eliminated the two IM Lead Worker jobs and created the new IM Worker position and the TS position; that the County's position description of the TS position dated December, 1987 (revised February 24, 1988) reads as follows:

Position purpose: To provide training to Income Maintenance Division employees and participate in the development of processes and policies that will minimize the occurrence of errors while maintaining compliance with state and federal program regulations.

Position in organization: Reports to Income Maintenance Manager and is classified as a non-represented, confidential position.

Dimensions:

1. Provides training to IM Assistants, Workers and other employees serving 5,000 cases who receive program benefits of \$46 million annually.

Major duties:

1. Develop, implement and maintain an IM Division training program for new and experienced IM Workers. (Formerly Supervisory duties with Lead Worker participation or completely new duties.)
2. Provide retraining to experienced employees identified by the Quality Assurance Process and supervisors as requiring strengthening of specific performance areas. Develop a training program, in cooperation with supervisors, for each IM Division employee to maximize staff capabilities and minimize the need for additional staff. (New duties)
3. Participate in policy and procedure development as a member of the IM Administrative Team. (Previously included Lead Workers)
4. Be responsible for maintaining the IM Division internal policy/process manual. (New duties)
5. Maintain a record of actions occurring in the IM Administrative Team meetings to enhance management efforts and quality performance. (New duties)
6. Work closely with Supervisors and Quality Assurance Specialist to identify and analyze Division performance areas requiring upgrading. (New duties)
7. Participate with IM supervisors in answering IM worker questions. (Previously included Lead Workers)
8. Participate in unit meetings to provide ongoing training activity necessary to upgrade performance. (New duties)
9. Maintain individual employee training records and coordinate participation in outside training. (IM Manager)
10. Participate in IM Division public relations activities. (All positions)

Accountabilities:

1. Ensures compliance of eligibility processing with income maintenance program laws and regulations.
2. Communicates information to supervisor regarding employee performance.
3. Participates as a member of the Income Maintenance Division Administrative Team in the development of processes and policies maximizing quality service and production.
4. Functions under general supervision.

Knowledges, Skills and Abilities:

Working knowledge of income maintenance programs and their respective laws, regulations and requirements; personal computer knowledge desirable; knowledge of training techniques; knowledge of statewide Computer Reporting Network (CRN) procedures; ability to use and interpret income maintenance manuals; ability to develop and maintain positive, effective working relationships with clients, staff and administrators; and ability to effectively communicate orally and in writing.

Education and Experience:

Requires four years of Income Maintenance Assistant, Worker or Lead Worker experience; or an equivalent combination of training and experience; and have demonstrated a minimum of an above average performance during the last two years.

Special Requirements:

Must possess a valid driver's license and have a vehicle available for required travel;

that the parenthetical information listed under the TS's "Major Duties" constitutes the County's analysis of the origin of the TS's duties; that the County attached to its February 24, 1988 revision of the TS position a graph which indicated that 30% of the TS's duties had come from "Supervisor/Manager", 15% from "Lead Worker" and 55% were "new" duties; that County records show that assuming two years experience in a position, the following IM Division employees would receive the following annual salaries at the non-represented pay grade listed in the parentheses:

POSITION	ANNUAL SALARY	
Income Maintenance Manager	(#30)	\$33,004
Income Maintenance Supervisor	(#20)	\$25,967
Special Investigations Unit Supervisor	(#14)	\$22,500
Income Maintenance Clerical Support Supervisor	(#10)	\$20,492
Training Specialist	(# 7)	\$19,089
Quality Assurance Specialist	(# 5)	\$18,207;

that the Welfare Fraud Investigator with the same experience is in the bargaining unit and is paid \$19,052 annually; that County records show that non-clerical bargaining unit positions (assuming two years experience) are paid annual salaries as follows:

Fraud Investigator Aide	\$18,038
Income Maintenance Lead Worker (Deleted 1/31/88)	\$18,038
Income Maintenance Worker	\$17,550
Income Maintenance Assistant	\$16,068.

6. That Komis' duties since her hire in February, 1988 have been to train and direct the work of a total of four IM Assistant Trainees during their 2.5 to 3 month training periods; that one of these Trainees had finished training as of the date of the instant hearing and Komis orally recommended to Waldo that said Trainee had successfully completed training; that this Trainee is now assigned to IM Supervisor Foss as an IM Assistant; that three of the IM Assistant Trainees were still being trained by Komis at the time of the instant hearing; that all four trainees posted into these positions from other bargaining unit jobs and the group of three trainees began work as IM Trainees in Mid-April, 1988; that the collective bargaining agreement between the Union and the County provides for a 20 day trial period in which unit employees who post into unit jobs must demonstrate that they can perform the duties of the posted position or risk being returned to their former position; that the County has not hired any new employees from outside County employment since Komis' hire; that during April, 1988, one of the IM Trainees experienced some problems on the job; that Komis administered tests to the Trainee during the first few weeks of training; that Komis then discussed her observations and testing of the Trainee having difficulty with the IM Team at an IM Team meeting; that Waldo then made the decision to retain this employee in the training program (and not return the Trainee to his/her former unit job), which decision was supported by Komis' oral recommendation; that IM Manager Waldo envisions that decisions to retrain experienced employees (a circumstance which has not arisen since Komis' hire) could occur in two ways---that the IM Supervisor could decide that an employee needs retraining and assign that employee to the TS for that purpose, or the TS, QAS and IM Supervisor could make a joint decision to retrain an employee; that Komis has never issued any written evaluations or written recommendations to management and she has never issued any oral or written warnings to any employees; that the IM Supervisors have the authority to discipline their employees and they have done so on a few occasions in the past; that there have been no formal evaluations of employees since Komis' hire, no instances of discipline or discharge have arisen and no Trainees have had to be returned to their former unit jobs due to performance problems during their contractual trial periods since Komis' hire; that on a day-to-day basis, Komis spends her time designing, directing and approving of all training and re-training activities; that she acts as the immediate supervisor of all trainees during their regular training periods (2.5 to 3 months), assigning tasks to them, administering tests, demonstrating case procedures and tasks for them, answering their questions and observing their performance; that even after a Trainee passes out of training, Komis then shares the responsibility to answer questions of the former Trainee with the employee's IM Supervisor; that according to the County's organizational chart, the group of three IM Trainees currently in training with Komis are assigned to her, but these Trainees are also assigned to IM Supervisor Jorgensen; that Jorgensen is responsible for approving the three Trainees' time cards and their vacation and other leave requests, although Trainees must obtain initial approval from Komis prior to seeking Supervisor Jorgensen's approval thereof; that Jorgensen is formally responsible for any written evaluation of the three Trainees assigned to him, although Komis is responsible for gathering and substantiating all performance data generated during each Trainee's training period and sharing it with the Trainee's IM Supervisor and with the members of the IM Team at a Team meeting; that Komis, as TS, serves on the IM Management/Administrative Team (IM Team) along with Waldo, the two IM Supervisors, the Clerical Supervisor and Special Investigations Supervisor; that Komis is responsible for taking minutes of all Team meetings; that the IM Team meets weekly to discuss, for example, the revision of evaluation forms, the replacement of a retiring IM Supervisor and employee performance data collected by the TS and the QAS; that at Team meetings, each member of the Team is normally asked for their input on the subject matter considered by the Team and, although only Waldo has the authority to make final decisions affecting labor relations and management policy, Waldo generally follows the consensus of the Team on these matters; that IM Workers and Assistants are normally evaluated annually by their IM Supervisors, who are solely responsible for initially scoring employees assigned to them; that thereafter each employee's performance and statistics are generally discussed at an IM Team meeting; that Waldo then makes any final decisions regarding employee performance, relying on and

taking Team input into account; that although such duties are not listed in the TS job description, IM Manager Waldo plans, in the future, to have Komis assist, as a member of the IM Team, in interviewing and hiring, in disciplining and firing IM employees; that prior to their elimination, the two IM Lead Workers also attended all IM Team meetings and they performed all training for IM Workers; that as TS, Komis will be responsible, under the supervision of the IM Manager, for the new duty of putting together an IM Division Training Manual; that Komis has Training Manuals from various other counties to refer to in putting together the County's Manual and Komis has been using a training film from Milwaukee County to teach Trainees some case procedures and practices; and that Komis receives the same fringe benefit package that all non-represented County employees receive which is different from that received by unit employees in several areas.

7. That the occupant of the Training Specialist position possesses and/or exercises supervisory authority and responsibilities in sufficient combination and degree to be deemed a supervisory employee.

Based upon the foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

1. That the occupant of the Training Specialist position is a supervisory employee within the meaning of Sec. 111.70(1)(o)(1), Stats., and therefore is not a "municipal employee" within the meaning of Sec. 111.70(1)(i), Stats.

Based upon the basis of the foregoing Findings of Fact and Conclusion of Law, the Commission makes the following

ORDER CLARIFYING BARGAINING UNIT 1/

That the position of Training Specialist is appropriately excluded from the existing collective bargaining unit consisting of certain employees of Brown County, described above in Findings of Fact 3, supra, presently represented by the Brown County Department of Social Services Para-Professional Employees Union.

Given under our hands and seal at the City of
Madison, Wisconsin this 3rd day of November, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld
Stephen Schoenfeld, Chairman

Herman Torosian
Herman Torosian, Commissioner

A. Henry Hempe
A. Henry Hempe, Commissioner

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may

(Footnote 1/ is continued on page 7.)

order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

BROWN COUNTY (DEPARTMENT OF SOCIAL SERVICES)

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSION OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

POSITIONS OF THE PARTIES:

Union

The petitioning Union contends that the Training Specialist position (TS), occupied by Amy Komis, is a bargaining unit position. The Union seeks a Commission order including the TS in its existing collective bargaining unit since the TS position is not supervisory, managerial or confidential, as the County contends. The Union notes, in this regard, the following facts. Prior to 1986, the IM Division employed two IM Lead Workers who were each responsible for a 1/3 client caseload, for quality control of IM Division cases and for the training of IM Workers. In 1985, IM Manager Waldo attempted to get County Board approval for an additional (third) IM Supervisor position. The County Board denied Waldo's request. Thereafter, in 1986, the County deleted one IM Worker position and created a new position, Quality Assurance Specialist (QAS) which took over the quality control responsibility formerly held by the two IM Lead Workers. The QAS position was filled and the incumbent was placed on Waldo's IM Management/Administrative Team, which then consisted of the two IM Supervisors, the Clerical Supervisor, the IM Manager, and the Special Investigations Supervisor. Late in 1987, Waldo proposed the elimination of the two IM Lead Worker positions and the creation of two new positions---that of Training Specialist and one additional IM Worker position. Funds to pay for the TS position and the new IM Worker position were to come from funds already earmarked for the two IM Lead Worker positions. The County Board approved Waldo's proposal and in February, 1988 Amy Komis was hired into the TS position and placed on the IM Management/Administrative Team. The Union argues from these facts that the County, by creation of the TS position as a non-unit position, was attempting to erode the bargaining unit.

In addition, the Union contends that the County's calling the TS position a supervisory/managerial position at the hearing, Waldo's labeling the position as "non-represented, confidential" in his position proposal documents and the County's reliance upon the fact that Komis has been placed on the IM Management/Administrative Team, is insufficient to demonstrate that Komis is actually a supervisor/manager. Rather, the Union argues, Komis is really a trainer, supervising the activities of trainees (and re-trainees) for limited periods of time; that at best, Komis serves as a conduit for information to the IM Supervisors and the IM Manager; that Komis lacks the independent authority and cannot effectively recommend the hiring, firing, transfer, promotion or discipline of bargaining unit employees---the final decision thereon being left to the IM Manager. The Union also points out that nothing in the TS job description or any of Waldo's proposal documents, indicated that the TS position would require the performance of managerial, supervisory or confidential tasks and the position was not labeled managerial or supervisory in any of the County's documents. The Union urges that labeling a job in this manner does not require a conclusion that the job is a non-unit position.

The Union points out that the TS's pay rate (\$19,089) is close to that of an IM Lead Worker (\$18,388); that the TS primarily supervises training activities, not employees; that the TS has very little to do with hiring since unit jobs must be posted and, under the collective bargaining agreement the most senior unit employee who signs the posting will receive a 20 day trial period on the job; that there was no evidence proffered by the County to show that the TS actually formulates, determines or implements management policy or that the TS can commit the County's resources. The fact that IM Manager Waldo testified that he plans to assign the TS additional managerial, supervisory or confidential duties in the future is not evidence that the TS position should now be excluded from the unit.

County

The County argues, primarily, that the TS position is a supervisory one. The County contends that the TS, along with the QAS, the two IM Supervisors, the Clerical Supervisor, the Special Investigations Supervisor and the IM Manager make team decisions which affect labor relations and management policy, and these

individuals, each of whom is on the IM Management/Administrative Team, are privy to confidential information regarding employee performance and potential disciplinary, transfer or promotion actions. The County pointed out that the TS is responsible for training all new employees and she will be responsible for re-training experienced employees on a regular basis; that in performing these functions, the TS directs employees, assesses employees' performance, assigns work to employees and makes recommendations to the IM Management/Administrative Team regarding whether employees who have posted into an IM job have successfully passed their trial period; that although it has not happened to date, the County argues that the TS will effectively recommend the hire of employees from outside County employment and the discipline and discharge of employees; that the TS has no caseload and therefore is not a working supervisor; that (as of the date of the instant hearing) the TS had three Trainees that she was responsible for but that this number will vary depending on the number of trainees and re-trainees needing training; that the TS is paid a higher salary than are the IM Workers; that the TS uses independent judgment in training workers and designing training programs for workers; that the TS is paid to supervise employees in training and to develop, maintain, approve and conduct all IM training for the County.

The County also argues that the TS position is confidential and managerial based upon the following facts: the TS actively participates in employee performance appraisals by receiving and assessing employee performance data, and, although this has not happened, Komis will participate, along with the IM Administrative Team, in discussing actions and making recommendations regarding promotions, transfers and discipline; the TS establishes, approves, coordinates and records the daily activities of the trainees during their training or re-training; and, should it become necessary in the future, the TS will become involved in the hiring process. On these grounds, the County seeks a Commission order excluding the TS position from the existing collective bargaining unit, on the grounds that the TS position is either managerial or confidential.

DISCUSSION:

Section 111.70(1)(o)1 of MERA defines the term "supervisor" as follows:

. . . Any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, or lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or to effectively recommend such action if in connection with the foregoing the exercise of such is not of the merely routine or clerical nature, but requires the use of independent judgment.

In its interpretation of the above definition, the Commission has on numerous occasions, listed the following factors as those to be considered in the determination of an individual's supervisory status:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;
2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees;
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees;
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees;
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees;

7. The amount of independent judgment exercised in the supervision of employees. 2/

. . .

The Commission has held that not all of the above factors need be present, but if a sufficient number of said factors appear in any given case the Commission will find an employee to be a supervisor. 3/

We are satisfied, on balance, that Komis is a supervisor.

It is true that in her short tenure up to the date of hearing, Komis did not exercise the authority to effectively recommend hiring. We note, however, that her division manager credibly testified that Komis has some authority in this area and will be playing a role in future hiring decisions.

The record also establishes that Komis has the authority to effectively recommend the transfer of an employee back to the original position from which posting was made if such employee is unable to complete training in a satisfactory manner. Conversely, if training is satisfactorily completed, Komis has the authority to effectively recommend promotion to the position for which the employee was in training.

Komis' division manager testified that she had authority to effectively recommend discipline. No instances were cited by either party which either corroborates or refutes this testimony. However, inasmuch as such testimony was unrefuted and, further, Komis' tenure in the position has been so brief as to have not yet presented any incidents requiring Komis, herself, to exercise any disciplinary authority, we are inclined to view such testimony as credible.

We recognize that Komis' authority in certain of these areas may be shared with other supervisory employees in the division. Yet, even if the "team management" style of the division manager appears to cause a diffusion of supervisory authority in some areas, in no case does such shared authority reduce Komis' supervisory authority to a perfunctory or non-discretionary exercise. Komis appears to exercise a substantial amount of independent judgment, even under the "team management" concept.

While training employees, Komis functions in an independent manner, has substantial authority to direct and assign their work, and exercises substantial control over the disposition of vacation requests. While the "team management" style of the division manager assigns a role in vacation approval and possibly other limited matters to the "formal" supervisor to whom trainees are also assigned, such role is largely de minimus and pro forma. Thus, we are satisfied that Komis' work responsibilities primarily involve supervision of employees.

Our impression is not diluted because, at times, Komis may supervise a small number of employees. We recognize that the number of employees under Komis' direction is contingent on both training needs and the number of trainees who have posted for the trainee positions, a situation we view as not unusual for most training supervisors.

We also note that Komis' level of pay is higher than that of other unit employees. Her pay is also higher than that of the division's Quality Assurance Specialist, another newly created position, the supervisory status of which is uncontested. Under these circumstances, we are reasonably satisfied that Komis is being paid for her supervision of employees.

2/ City of Delevan, Dec. No. 12185-A, (WERC, 8/88); Northwood School District, Dec. No. 20022, (WERC, 10/82); Cornell School District, Dec. No. 17982, (WERC, 8/80); Augusta School District, Dec. No. 17944, (WERC, 7/80).

3/ Door County (Courthouse), Dec. No. 24016-B, (WERC, 8/88); Northwood School District, Ibid; City of Lake Geneva, Dec. No. 18507, (WERC, 3/81); Lodi Joint School District, Dec. No. 16667, (WERC, 11/78).

Finally, it is obvious that Komis is not a working foreman. She has no independent case load of her own, and such limited case work as she may perform is for illustrative training purposes only.

Based on the foregoing, we believe that the training specialist position does possess sufficient indicia of supervisory authority to warrant exclusion from the unit on that basis. Given this result, it is unnecessary to resolve the confidential or managerial arguments made by the County.

Dated at Madison, Wisconsin this 3rd day of November, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld
Stephen Schoenfeld, Chairman

A. Henry Hempe
A. Henry Hempe, Commissioner

Concurring Opinion:

I concur with the outcome reached by my colleagues primarily on the basis of IM Manager James Waldo's uncontroverted and credible testimony that Komis will in the future, through team management, be exercising her supervisory authority by participating and effectively recommending the hire, fire and discipline of employees. In my opinion it is the possession and future use ^{4/} of such authority that establishes Komis as a supervisor and warrants her exclusion from the bargaining unit.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Herman Torosian
Herman Torosian, Commissioner

^{4/} Komis has occupied the newly created Training Specialist position only since February, 1988.