

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case I
No. 22623 SE-85
Decision No. 16419

ORDER DISMISSING PETITION FOR ELECTION

Local 150, Service and Hospital Employees International Union, AFL-CIO having, on February 6, 1978, filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted among all employees of the Wisconsin State Fair Park employed as ticket sellers and cashiers to determine whether said employees desire to be represented by said Union for the purposes of collective bargaining with the State of Wisconsin, which operates the State Fair Park at Milwaukee, Wisconsin; and hearing having been scheduled in the matter; and prior to the conduct of said hearing the State Employer having, in writing, opposed the jurisdiction of the Commission to conduct the election as requested by said Union, contending that the employees involved are limited term employees and, therefore, not "employees" as defined in Section 111.31(15) of the State Employment Labor Relations Act; that subsequently, in response to the State's position, the Union, in writing, while admitting that the employees involved are "limited term employees," argued that the Commission should conduct the election inasmuch as there has been a continuity of employment of the employees involved ranging from three to over thirteen years of summer employment; and the Commission being fully advised in the premises and being satisfied that limited term employees are not "employees" within the meaning of the State Employment Labor Relations Act, and further, that the unit claimed appropriate by the Union herein is not an appropriate unit within the meaning of the State Employment Labor Relations Act, and, therefore, the petition should be dismissed without hearing;

NOW, THEREFORE, it is

ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin this 19th
day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Herman Torosian, Commissioner

Marshall L. Gratz, Commissioner

No. 16419

MEMORANDUM ACCOMPANYING
ORDER DISMISSING PETITION FOR ELECTION

As indicated in the preface to the Order dismissing the petition filed herein, the Union seeks a unit of limited term employees employed by the State of Wisconsin in the operation of the Wisconsin State Fair Park at Milwaukee. Prior to hearing, the State, in writing, opposed the jurisdiction of the Commission to conduct the election on the basis that the "employees" involved were limited term employees, and, therefore, not entitled to an election under the State Employment Labor Relations Act.

Section 111.81(15) provides as follows:

"'Employee' includes any state employee in the classified service of the state, as defined in 230.08, except limited term employees, sessional employees, project employees, employees who are performing in a supervisory capacity, management employees and individuals privy to confidential matters affecting the employer-employee relationship, as well as all employees of the commission."

The Union acknowledges that the employees are limited term employees; however, it contends that the Commission should conduct an election herein inasmuch as the employees involved have a permanency of employment ranging anywhere from three years to over thirteen years. The limited term employees involved are ticket sellers and cashiers who work during the season. The State Fair Park is in operation for shows, the State Fair and auto races. The mere fact that said limited term employees have some permanency of employment does not grant this agency jurisdiction to change the classification of limited term employees to employees in the classified service.

Furthermore, Section 111.81(3)(a) of the State Employment Labor Relations Act establishes collective bargaining units appropriate under the State Employment Labor Relations Act. The Commission has no authority nor discretion to establish units other than those set forth in the statute. The Commission's authority is limited to assigning eligible employees to the appropriate statutory bargaining units.

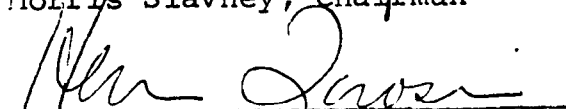
Since the employees involved are limited term employees, they have no rights under the State Employment Labor Relations Act, and, furthermore, if the employees involved were in the classified service, the Commission could not establish them in a separate unit, but would have the responsibility of assigning such employees to the statutorily existing appropriate bargaining unit. Therefore, we see no reason to hold hearing in the matter and we have dismissed the petition.

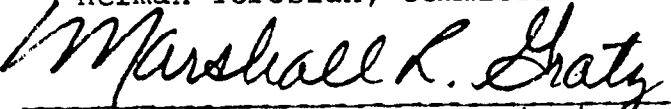
Dated at Madison, Wisconsin this 19th day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner