

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case I
No. 22827 E-2957
Decision No. 16512-A

On August 23, 1978 the Commission issued a Direction of Election in the above-entitled proceeding wherein it was provided that the election should be conducted within thirty days. Thereafter the election was scheduled to be conducted on September 21, 1978 but was cancelled due to the failure of the Commission's agent to be present on the date and at the time and place of the balloting. Based upon these events, the Commission is satisfied that the time period for the conduct of the election should be extended an additional thirty days and therefore issues the following

IT IS HEREBY ORDERED that the time period for the conduct of the election herein be, and the same hereby is, extended an additional thirty (30) days from September 22, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Morris Slavney, Chairman

Herman Torosian, Commissioner

Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING ORDER EXTENDING
TIME PERIOD FOR CONDUCT OF ELECTION

The election herein was scheduled to be conducted on September 2, 1978. On that date the Commission's agent failed to appear at the time and place designated in the notice for the conduct of the vote. Because of this omission, which was the fault of the Commission's agents and not the parties to this proceeding, the scheduled election was cancelled. We have extended the time period for the conduct of the election beyond the thirty days provided for in our direction in order to reschedule the vote. 1/

The Employer contends that we should establish a new eligibility date of either September 23 or September 30, and the Union opposes said proposal. In its written statement in support of its position, which was dated September 28, 1978, the Employer alleges that since the eligibility date, August 23, 2/ five new employees have been hired and two employees have left their employment. Employees hired after the eligibility date are not eligible to vote. Employees who quit their employment prior to the date of the election are also not eligible to vote. It is not clear how many of said employees were hired or left their employment in the four weeks which preceded the scheduled election, rather than the one week which elapsed after the election was cancelled and prior to the Employer's preparation of its statement.

We see no reason to reverse our earlier determination to utilize the date of our direction as the eligibility date in this case. Furthermore, we do not believe that any changes in the employee complement that may have occurred in the time that has transpired since the election was cancelled as a result of the omission of our agents requires a different result.

The Employer also argues that under Section 111.05(4), Stats., the Commission must be cognizant of a sufficient reason for holding "another election," and that it would be contrary to the law and the rights of the employees involved to utilize the eligibility date established in our direction in the upcoming election. The obvious flaw in this argument lies in the fact that we have not yet conducted an election pursuant to our direction. We believe that the rights of the employees as well as the other parties to this proceeding are best

The parties have agreed that the vote should be conducted on October 12, 1978.

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In our order of August 23, 1978 we established an eligibility date of August 23, 1978, consistent with our usual practice in election proceedings. In doing so we rejected the Union's request that we use the date of the hearing as the eligibility date and the Employer's request that we use the last payroll date prior to the election as the eligibility date.

protected by adhering to our policy of utilizing the date of our direction as the eligibility cut-off date in this case.

Dated at Madison, Wisconsin this 3rd day of October, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
Marshall L. Gratz, Commissioner