

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
TEAMSTERS "GENERAL" LOCAL UNION
NO. 200
Involving Certain Employees of
CURTIS-UNIVERSAL AMBULANCE SERVICE

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

Appearances:

Mr. James Bonnett, Business Agent, appearing on behalf of the
Petitioner.
Brigden, Petajan & Krukowski, S.C., Attorneys at Law, by
Mr. Thomas P. Krukowski, appearing on behalf of the Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Teamsters "General" Local Union No. 200 having, on March 29, 1978, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election pursuant to Section 111.05 of the Wisconsin Employment Peace Act, among certain employees of Curtis-Universal Ambulance Service, Milwaukee, Wisconsin, to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining; and a hearing on said petition having been held at Milwaukee, Wisconsin, on April 20, 1978, before Examiner Duane McCrary; and the Commission, having considered the evidence and arguments of the parties and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusions of Law and Direction of Election.

FINDINGS OF FACT

1. That Teamsters "General" Local Union No. 200, hereinafter referred to as Petitioner, is a labor organization having its offices at P. O. Box 2073, Milwaukee, Wisconsin.
2. That Curtis-Universal Ambulance Service, hereinafter referred to as the Employer, is an employer having its principal offices at 3525 West Lincoln Avenue, Milwaukee, Wisconsin.
3. That the instant proceeding was initiated by a petition filed by the Union with the Wisconsin Employment Relations Commission, wherein it requested the Commission to conduct an election among "all employees" of the Employer, excluding office clericals, salesmen, guards and supervisors; that during the course of the hearing on said petition on April 20, 1978, the Union, in effect, amended its petition so as to indicate that it desired to represent "all regular full-time and regular part-time employees" of the Employer, excluding office clericals, salesmen, guards and supervisors; that during the course of the hearing the Employer contended that all the employees of the Employer are temporary employees and that, therefore, the bargaining unit claimed appropriate by the Union could not constitute an appropriate unit as contemplated by the Wisconsin Employment Peace Act, and that, in the alternative, should the Commission find that the unit is appropriate, the date established by the Commission as the date on which employees are to be employed in order to be eligible to participate in the election should be the payroll "period" which immediately precedes the date of the election.

4. That the Employer employs the following individuals on a regular full-time or regular part-time basis, as noted, as Emergency Med. Tech., Driver, Dispatcher, Army Med. Tech., Driver/Dispatcher, Emergency Med. Tech./Dispatcher:

Regular Full-Time

C. H. Baker, Jr.	Robert Stoesser
James J. Baker, Jr.	John Vivian
Thomas Elliot	Robert White
Cary Evers	Daniel Fay
Gary Frea	Peter Jaroch
Joel Kunz	Lee McKnight
Michael Ovens	Mark Oddsen
Robert O'Neal	Vincent Sachs
Janice Stembridge	

Regular Part-Time

David Bahringer	Paul Mente
Jon Baker	Richard Nienow
Terrance Czajkowski	Richard Skinner
Todd Fast	Alan Stern
John Goudie	David Tomasino
Richard Karner	Daniel Windler
John Koloske	Robert Laine
Richard Lonski	

5. That Messrs. C. H. Baker, Jr., James G. Baker, Jr., and Jon Baker, are the sons of the owners of the Employer; and that Gary Frea, John Vivian, Daniel Fay, and Peter Jaroch have been designated as "Shift Supervisors" by the Employer.

6. That on July 26, 1978, Counsel for the Employer, by letter, advised, in effect, that it was withdrawing its contention that the employees in the unit requested by the Union were temporary employees, and further, that the Employer agreed to an election among the employees in the unit desired by the Union.

7. That the individuals named above who have been designated by the Employer as "Shift Supervisors" perform insufficient supervisory duties to warrant the conclusion that said individuals are supervisors.

On the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time employees of Curtis-Universal Ambulance Service, Milwaukee, Wisconsin, excluding office clericals, salesmen, guards and supervisors constitute an appropriate bargaining unit within the meaning of Section 111.02(6) of the Wisconsin Employment Peace Act.

2. That since C. H. Baker, Jr., James G. Baker, Jr., and Jon Baker are employed by their parents, they are not employees within the meaning of Section 111.02(3) of the Wisconsin Employment Peace Act.

3. That the individuals designated by the Employer as "Shift Supervisors," namely, Gary Frea, John Vivian, Daniel Fay, and Peter Jaroch, are employees within the meaning of Section 111.02(3) of the Wisconsin Employment Peace Act.

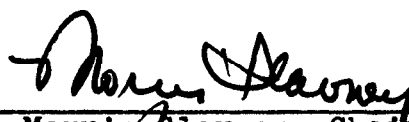
Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

DIRECTION OF ELECTION


That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time employees of Curtis-Universal Ambulance Service, Milwaukee, Wisconsin, excluding office clericals, salesmen, guards and supervisors, who were employed on August 23, 1978, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees voting desire to be represented for the purposes of collective bargaining by Teamsters "General" Local Union No. 200.

Given under our hands and seal at the
City of Madison, Wisconsin, this 23rd
day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

During the course of the hearing the Employer contended that the unit desired by the Union was inappropriate since it consisted primarily of individuals who were temporary employees, in that they had been recently hired and that in the past there has been a considerable turnover of employees. Following the hearing, the Employer's Counsel withdrew its contention in that regard and agreed that the unit, as amended by the Union during the course of the hearing, was an appropriate bargaining unit.

The owners of the Employer are Mr. Gabriel King, Mr. and Mrs. James Baker, and Mr. and Mrs. Clifford H. Baker. Among the individuals employed by the Employer are three sons of two of the owners. While no issue was raised during the course of the hearing with regard to the eligibility of said individuals to participate in the election, it should be noted that Section 111.02(3) of the Wisconsin Employment Peace Act specifically excludes "any individuals employed by his parent . . ." from the definition of the term "employee." Therefore, C. H. Baker, Jr., James G. Baker, Jr., and Jon Baker are not eligible to participate in the election.

During the course of the hearing the Employer contended that the four individuals designated as Shift Supervisors are supervisory employees and, therefore, should be excluded from the bargaining unit.

The Employer operates a 24 hour ambulance service transporting patients from points in the Milwaukee area to hospitals in the area. Gabriel King, the General Manager, who also serves as an Attendant/Driver, is in charge of the Employer's vehicles and any problems that arise with respect to the employees and the equipment of the Employer. King, with the owners, is involved in the hiring and firing of employees. Shift Supervisors are "in charge" of the various employees on the various shifts. There are no management or other designated supervisory personnel present during the shift on which Shift Supervisors are employed. The Shift Supervisor spends a majority of his time operating ambulances, running his own dispatch calls, as well as monitoring, by radio, other vehicles operated by employees. The Shift Supervisor dispatches employees in response to calls. On occasion he will reassign employees to various vehicles. Both Shift Supervisors and employees punch time clocks. Shift Supervisors are hourly paid. While a Shift Supervisor has made recommendations to terminate employees, they play no part in respect to hiring. Shift Supervisors occasionally permit employees to leave work early and on other occasions the Shift Supervisor first obtains the permission of the General Manager therefor. Nothing in the record indicates that the Shift Supervisor is compensated for his "supervisory" duties. It appears that the Shift Supervisor is a working supervisor, and that he is primarily responsible for supervising an activity rather than primarily supervising employees. Consequently we conclude that the Shift Supervisors do not possess and exercise supervisory authority in sufficient combination or degree to be deemed acting in a supervisory employees within the meaning of Section 111.02(3) of the Wisconsin


The Employer would have the Commission establish, as the eligibility date for the election, the day of the payroll period ending immediately preceding the election. In an election proceeding, the Commission issues a direction of election and copies thereof are mailed to the parties. Within a few days after such mailing, representatives of the parties are contacted by the Commission's Elections Officer to arrange for a place, date and time for the election. When such facts are obtained the Elections Officer prepares a notice, setting forth the purpose of the election, as well as the details with regard to the conduct thereof. The Employer is required to post copies of said notices on its premises where the employees may observe same. Said notices are required to be posted at least three days prior to the conduct of the balloting. The Employer's proposal with respect to the eligibility date is quite novel in that such proposed date would constitute a date which falls after the issuance of the Direction of Election.

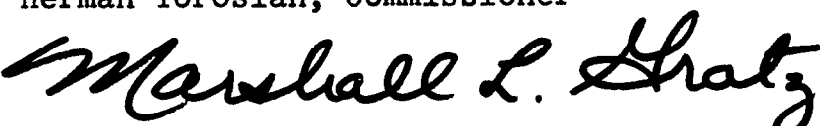
The Union would have the Commission utilize the date of the hearing as the eligibility date. The Commission sees no reason to depart from its general practice of establishing the eligibility date as the date on which the Direction is issued. 2/

Dated at Madison, Wisconsin, this 23rd day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner

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