

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**DANE COUNTY (EXPOSITION CENTER-
MEMORIAL COLISEUM)**

No. 16946

all employees of the Dane County Highway Department, Dane County Exposition Center, except casual employees and all employees of the Dane County Regional Airport, excluding craft, supervisory, confidential, managerial, clerical and law enforcement employees and all other employees.

5. That in its petition initiating the instant proceeding the Petitioner contended that the unit appropriate for collective bargaining should consist of "the Maintenance-Stagehand position, and all other persons in Classification 40-Stagehand employed by Dane County as stage carpenters, stage electricians, property persons, spotlight operators, fly-persons, riggers, and wardrobe workers at the Dane County Exposition Center-Memorial Coliseum."

6. That during the course of the hearing herein the County, contrary to the Petitioner, contended that the individual occupying the currently unrepresented position of Maintenance-Stagehand, John Sparks, properly belongs in the Local 65, AFSCME, bargaining unit rather than the proposed Local 251, IATSE bargaining unit on the base of its claim that Sparks is not a craft employee inasmuch as he spends the majority of his working time performing duties which are identical to those done by employees represented by Local 65, AFSCME; that, in addition, the County argued at the hearing that hiring hall referral employees are temporary or casual employees who lack a community of interest with Sparks and therefore should properly be excluded from the proposed unit.

7. That Sparks has the knowledge and experience of a journeyman stagehand, and performs duties of a journeyman stagehand and therefore is employed as a skilled journeyman craftsman.

8. That hiring hall referral employees, who are on the hiring hall referral list and available to work in the future and who worked in four or more payroll periods in the last 26 payroll periods performing stagehand work in assistance to and as back-up for Sparks, are employed by the County to do work of a craft nature on a sufficiently regular basis so as to have an interest in the wages, hours and working conditions of the stagehands employed by Dane County.

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

CONCLUSIONS OF LAW

1. That John Sparks, occupying the position of Maintenance-Stagehand, is a craft employee within the meaning of Section 111.70 (1)(f) of the Municipal Employment Relations Act, and therefore, is appropriately included in the bargaining unit described below, and is eligible to participate in the election directed herein.

2. That the Maintenance-Stagehand position, and all other persons employed by Dane County as stagehands performing work as stage carpenters, stage electricians, property persons, spotlight operators, fly-persons, riggers and wardrobe workers at the Dane County Exposition Center-Memorial Coliseum and excluding all other employees of Dane County, constitute an appropriate bargaining unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act.

3. That in addition to Sparks, the hiring hall referral employees who are available to work and who worked in four or more payroll periods in the 26 payroll periods immediately preceding the date of this direction assisting Sparks in the performance of duties of a craft nature, have a sufficient interest in the matter to be deemed eligible to participate in the election directed herein.

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 of the date of this directive in a voting group consisting of the Maintenance-Stagehand position, and all those persons who are available to work as of April 3, 1979, and who worked during four or more payroll periods in the 26 payroll periods immediately preceding the date of this direction, performing work as stage carpenters, stage electricians, property persons, spotlight operators, fly-persons, riggers and wardrobe workers at the Dane County Exposition Center-Memorial Coliseum but excluding all other employees of Dane County, 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 casting valid ballots desire to be represented by Madison Theatrical Stage Employees and Moving Picture Machine Operators Local 251 for the purposes of collective bargaining with respect to wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin this 3rd
day of April, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing issues arose as to whether the occupant of the Maintenance-Stagehand position is a craft employee entitled to be represented in a separate craft bargaining unit and whether other hiring hall referral employees should be included in such a unit.

The County, contrary to the Petitioner, contends that the Maintenance-Stagehand, John Sparks, is not a craft employee and properly belongs in the overall Local 65, AFSCME unit rather than the proposed craft unit. The County, also contrary to the Petitioner, argues that the hiring hall referral employees are casual employees and therefore do not share a community of interest with John Sparks. Consequently, the County would exclude said employees from the proposed bargaining unit.

The Intervenor took no position with respect to the above issues.

DISCUSSION:

Sparks is the only person employed on a full-time basis at the Dane County Exposition Center-Memorial Coliseum in the position of "Maintenance-Stagehand."

The "Maintenance-Stagehand" job description describes the training and experience necessary for this position:

Must be a high school graduate with five years experience in the general trade with progressively responsible duties in backstage work including rigging, lighting, carpentry and related electrical work.

The job description also describes the multitude of technical functions performed by Sparks. These include preparing and setting up stage scenery, properties and equipment. The stagehand must also be able to build, cover, arrange, set up and tear down stages, platforms and related equipment. In addition, he is responsible for maintaining and operating "a variety of staging, permanent and portable spotlights, including super troupers, maintains and operates lighting switchboard, intercommunication necessary for light cues." He must further keep all stage related equipment in proper repair and working condition and keep records and make reports as necessary.

It is undisputed that after they set the stage, the stagehands work with the road crew setting up equipment for the show. The stagehands must be familiar with sound equipment, amplifiers, lighting equipment, temporary stage wiring, the lighting console, band equipment and props, as well as the manner in which they should be arranged. Once the "in" is completed, the stagehands work the show. This includes operation of the lighting console, the dimmer board and spotlights. The stagehands are also responsible for set changes and handling any emergencies. Once the show is ended the stagehands take down all of the equipment and pack it in boxes and load it into trucks.

In addition to the work spent directly in shows, Sparks spends a significant amount of time performing maintenance work on the equipment relating to the stage. Sparks is responsible for maintaining the surface of the portable stage. He must repair the stage wheels and legs if they become damaged or bent. He is responsible for seeing that the spotlights are in proper working order. After every 20-30 hours of use, Sparks has to clean the lenses and reflectors and see that the spotlights' mechanical equipment is in working order. He also must see that the curtains and draperies are cleaned and repaired.

Finally, Sparks is responsible for seeing that the stage lighting is in working condition. The only maintenance duty that other employees occasionally perform is the resurfacing of the stage.

Except in rare situations, no other employees perform stagehand work. When Sparks is sick or on vacation, the County calls IATSE for a replacement rather than using other County employees to perform his duties. The County also has contacted IATSE to provide relief for Sparks on days when he was working extended hours.

The "Maintenance-Stagehand" position has in the past been treated as a craft position by the parties. Until the filing of the petition in this case, the County had consistently treated the position in question as a craft position. The position is excluded from the bargaining unit represented by the Intervenor. In this regard Walter Klopp, the district representative for the Intervenor, testified that Local 65, AFSCME never felt the position should be included in its unit, and that the local "considered . . . (Sparks) a craft employee in the sense that he does special types of stage work." In two separate election proceedings initiated by the Teamsters, no effort was made to include Sparks' position in the overall bargaining unit.

The County raises an issue concerning the amount of time Sparks spends performing maintenance work vis-a-vis his craft duties in support of its contention that Sparks should be included in the non-craft, AFSCME bargaining unit. However, assuming arguendo that the County's contention with respect to the ratio of hours spent is correct, the record is still clear that Sparks spends a substantial period of time in the performance of craft duties or maintenance work directly related to properly carrying out said craft duties. The record is also clear that this work is specialized and requires specific knowledge and training to perform which other employees at the Dane County Exposition Center-Memorial Coliseum do not possess. In view of all of the foregoing, the Commission concludes that Sparks meets the definition of "craft employee" as contained in 111.70(1)(f) of the Wisconsin Statutes:

. . . a skilled journeyman craftsman, including his apprentices and helpers, but shall not include employees not in direct line of progression in the craft.

and as delineated by the Commission in Winnebago County Hospital (6043) 7/62. 1/

The County also argues that the Maintenance-Stagehand position be included in the non-craft, AFSCME bargaining unit to avoid fragmentation. However, Section 111.70(4)(9)2.a. mandates, where the employees so desire, the formation of separate craft units. In the instant case the collective bargaining agreement covering the employees represented by AFSCME specifically excludes craft employees and AFSCME, while it intervened in the proceeding, expressed no desire to represent this employee. Consequently, the Commission rejects this argument by the County.

1/ To constitute a "craft" employee an individual must have a substantial period of apprenticeships or comparable training. Employees will be considered to be engaged in a single craft when they are a distinct and homogeneous group of skilled journeymen craftsmen working together with their apprentices and/or helpers.

The Dane County Exposition Center-Memorial Coliseum also employs stagehands throughout the year to perform work in connection with specific shows. These stagehands are obtained as needed through the hiring hall operated by Local 251, IATSE. They assist Sparks in the performance of his work. They also act as replacements for Sparks when he is sick or on vacation or when the County decides not to assign him to a particular show. Basically, the hiring hall referral employees perform the same kind of stage work as Sparks.

The County argues that the hiring hall referral employees lack a community of interest with the Maintenance-Stagehand, Sparks. The County also argues that these employees are casual employees who lack sufficient regularity of employment to be included in the proposed bargaining unit.

The Commission has held that it is sometimes appropriate to include in a bargaining unit employees who perform work on an irregular basis which is functionally related to the positions occupied by other employees in the unit. 2/ In the instant case it is undisputed that the hiring hall referral employees perform the same kind of stage work as Sparks both in assistance to and as back up to said employee. Consequently, the Commission finds that it would be appropriate to include hiring hall referral employees in a bargaining unit with the Maintenance-Stagehand position currently occupied by Sparks.

While the referral employees in question perform work which is sufficiently functionally related to other bargaining unit positions to be included in the instant bargaining unit, only those referral employees who meet some minimum standards of present and future expectation of employment should be deemed eligible to vote in the representation election directed herein. 3/

The Commission's decision with regard to substitute teachers are instructive in this regard. Many substitute teachers do not work a set schedule but rather work on an "as needed" basis. Some substitutes work very often while others may only be called occasionally. The Commission has determined that substitute teachers who meet some minimal standards of prior and present employment status have sufficient interest in wages, hours and working conditions to be eligible to vote in an election. 4/ The Commission has established no fixed rule in such cases, and instead has decided such issues on a case-by-case basis.

Applying the above approach to the instant case we note that twenty-eight (28) people were referred in 1978 from the hiring hall to the County through payroll period twenty-one (21). According to the County's calculations these hiring hall referral employees worked during a mean average of 3.4 payroll periods out of a maximum possible twenty-one (21). The Commission concludes that hiring hall referral employees who worked during a minimum of four payroll periods out of a maximum possible twenty-six (26) immediately prior to the date of this direction and who are available to work as of the date of this Direction have a sufficient interest in the wages, hours and working

2/ City of Appleton Parking and Transit Commission (16090-A) 9/78.

3/ Kenosha Unified School District No. 1 (14908) 9/76; Milwaukee Board of School Directors (8901) 2/69.

4/ Id.

conditions of stagehand employees employed by the County to be deemed eligible to vote and to be representative of the group. The County is hereby requested to supply the Commission and the Union with a up-dated copy of Employer's Exhibit No. 1 covering the 26 pay periods in question.

Dated at Madison, Wisconsin this 3rd day of April, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
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