

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF ST. FRANCIS
(FIRE DEPARTMENT)

Case XXXIII
No. 25021 ME-1717
Decision No. 17437-A

Following an election conducted by it, the Wisconsin Employment Relations Commission, on January 9, 1980, issued a Certification of Representative, wherein St. Francis Firefighters Local 2717, IAFF, AFL-CIO was certified as the exclusive collective bargaining representative of all regular full-time and regular part-time fire fighters employed by the City of St. Francis, including the captains, but excluding the chief, senior captain, confidential and managerial personnel; and that on March 10, 1982 the City having filed a petition requesting Commission to clarify said bargaining unit by excluding captains therefrom; and hearing in the matter having been adjourned on five separate occasions, pending attempts by the parties to resolve the matter in issue; and on August 25, 1982 the Commission having received a stipulation executed by the parties, wherein, among other things, the parties agreed to exclude the captains from the bargaining unit on the basis of their supervisory duties, and having also requested the Commission to amend the description of the bargaining unit to reflect same; and the Commission being fully advised in the premises and being satisfied, on the basis of the facts contained in the stipulation of the parties, that the captains are supervisors, and therefore should be excluded from said bargaining unit:

NOW, THEREFORE, it is

ORDERED

That the description of the collective bargaining unit presently represented by St. Francis Firefighters Local 2717, IAFF, AFL-CIO, be, and the same hereby is, amended to read as follows:

All regular full-time and regular part-time firefighters employed by the City of St. Francis, but excluding the chief, captains, confidential and managerial personnel

Given under our hands and seal at the City of
Madison, Wisconsin this 9th day of September, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Gary L. Covelli, Chairman

Morris Slavney, Commissioner

Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING ORDER AMENDING
CERTIFICATION OF REPRESENTATIVE

Prior to the election leading to the original certification of the Union as the representative of firefighter personnel in the employ of the City, an issue arose as to whether the captains, other than the senior captain, were supervisors, and, as a result, whether they should be included or excluded from the unit. The Commission conducted the election in accordance with the terms contained in a stipulation between the Union and the City. The portion of the stipulation relating to the captains was set forth in a footnote contained in the Certification issued by the Commission on January 9, 1980, which stated as follows:


In their stipulation, the parties agreed that the issue as to whether the captains, other than the senior captain, are to be included or excluded from the bargaining unit would be determined by the Commission's "challenged ballot procedure" whether or not the votes affected the results of the election. However, during the conduct of the election the two individuals occupying the positions of captain presented themselves to vote and were allowed to vote and neither party challenged their ballots. The results of the election indicate that the ballots of the two captains did not affect the outcome of the election and we have therefore certified the results of the election in a unit including the captains in question. Because there has never been a Commission determination as to the propriety of their inclusion, the Municipal Employer may, at some future date, request that a hearing be held to determine the issue of the continued inclusion of the captains in the bargaining unit.


The stipulation filed by the parties in the instant matter materially set forth that the City maintains only one fire station, and that the position of captain is the rank immediately below that of the chief, and that therefore the parties agreed that employees holding the rank of captain should be excluded from the bargaining unit, and that the certification previously issued should be amended to reflect same. Sec. 111.70(1)(o) 2. of MERA, defines the term "supervisor" in municipalities having but one fire station, as including "only the chief and the officer in rank immediately below the chief". It is readily apparent that the captains in the employ of the fire department of the City of St. Francis are "supervisors", and therefore are not properly included in a unit of non-supervisory fire fighting personnel, and we have, therefore, amended the certification in accordance with the stipulation of the parties.

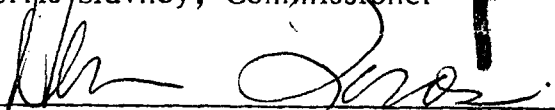
Dated at Madison, Wisconsin this 9th day of September, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner