

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

DODGE COUNTY

Involving Certain Employees of

DODGE COUNTY

Case XL
No. 25481 ME-1775
Decision No. 17558-C

Appearances:

Kathleen M. Arthur, Corporation Counsel Attorney, County of Dodge, 3rd Floor, Courthouse, Juneau, Wisconsin 53039, appearing on behalf of the Petitioner.

Richard H. Schwarz, Field Representative, Wisconsin Federation of Nurses and Health Professionals, AFT, AFL-CIO, 6525 West Bluemound Road, Milwaukee, Wisconsin 53213, appearing on behalf of the Union.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT

Dodge County, having on August 29, 1980, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested the Commission to clarify an existing collective bargaining unit consisting of certain Registered Nurses employed in the Dodge County Community Health Nursing Agency, who are represented by the Wisconsin Federation of Nurses and Health Care Professionals, AFT, AFL-CIO; and a hearing having been conducted on the matter at Juneau, Wisconsin, on October 20, 1980, William C. Houlihan, Examiner, being present; 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, Conclusion of Law, and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

(1) That Dodge County, hereinafter referred to as the County, is a municipal employer and has its offices at the Dodge County Courthouse, Juneau, Wisconsin, 53039.

(2) That the Dodge County Federation of Nurses, AFT, AFL-CIO, hereinafter referred to as the Union, and has its offices in care of Wisconsin Federation of Nurses and Health Professionals, AFT, AFL-CIO, 6525 West Bluemound Road, Milwaukee, Wisconsin, 53213; that since February 8, 1980, the Union has been the certified 1/ exclusive collective bargaining representative of all Public Health Nurses and Registered Nurses employed by the County in its Community Health Nursing Agency, excluding the Nurse Director and all other employees of the employer.

(3) That Wilma Von Rueden, occupying the position of Community Health Nursing Supervisor lacks the authority to effectively recommend the hire, promotion, discharge, or reward of other employees; that Von Rueden's authority to assign and direct work is of a routine nature; and that the current occupant of the Nursing Supervisor position exercises an insufficient combination of supervisory duties and responsibilities to warrant the conclusion that it is supervisory.

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

CONCLUSION OF LAW

That Wilma Von Rueden, the incumbent Community Health Nursing Supervisor, is not a supervisor within the meaning of Section 111.70(1)(o)1, Wis. Stats., but rather is a municipal employe within the meaning of Section 111.70(1)(b) Wis Stats.

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


ORDER CLARIFYING BARGAINING UNIT

That the position of Community Health Nursing Supervisor, currently occupied by Wilma Von Rueden, shall be, and the same hereby is, included in the certified collective bargaining unit presently represented by the Dodge County Federation of Nurses, AFT, AFL-CIO, and consisting of all public health nurses and registered nurses employed by Dodge County in its Community Health Nursing Agency, excluding the Nurse Director, and all non-nursing employes of that agency.

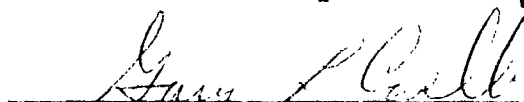
Given under our hands and seal at the City of Madison, Wisconsin this 23rd day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman



Gary L. Covelli, Commissioner

CS

No. 17558-C

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSION OF LAW AND
ORDER CLARIFYING BARGAINING UNIT

On January 25, 1980, the Wisconsin Employment Relations Commission conducted a representation election among the employees in the bargaining unit described in the Findings of Fact, which unit had been stipulated to by the County and the Union. During the voting process, the County challenged the ballot of Wilma Von Rueden, contending that the position she occupies, that of Community Health Nursing Supervisor, is supervisory and therefore not to be included in the unit. The challenged ballot did not affect the outcome of the election, and so there was no determination, by the Commission, of the supervisory status of the position at the time of the certification of the results of the election. On August 29, 1980, the County filed a unit clarification petition, seeking resolution of the matter.

Section 111.70(1)(b) of the Municipal Employment Relations Act defines the term Supervisor as follows:

" . . . Any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, or lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or to effectively recommend such action if in connection with the foregoing the exercise of such is not of the merely routine or clerical nature, but requires the use of independent judgement."

In its interpretation of the above definition, the Commission has, on numerous occasions, listed the following factors as those to be considered in the determination of an individual's supervisory status:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;
2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees;
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees;
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees;
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees;
7. The amount of independent judgment exercised in the supervision of employees; 2/

2/ Fond du Lac County, (10579-A) 1/72; St. Croix County (Health Care Center), (14518) 4/76; Wood County, (10345-A).

The Commission had held that not all of the above factors need be present, but if a sufficient combination of said factors appear in any given case the Commission will find an employe to be a supervisor. 3/

Hiring decisions are made by a Committee of the County Board upon the recommendation of the Agency Director. The Nursing Supervisor's input, which is similar to that of the other bargaining unit members, is to the Director, who is responsible for making a recommendation to the Public Health Committee. The Public Health Committee, in turn, makes a recommendation to the Personnel Committee, which does the hiring. Discharge and Promotional decisions are handled in the same fashion. There has been no experience with discipline.

The Nursing Supervisor spends a substantial portion of her time taking client referrals, and distributing them to bargaining unit members. To a lesser extent each of the unit members also take referrals. The Agency is organized on a geographic basis. That is, each Public Health Nurse is assigned a geographic area, and expected to assume and handle the cases arising in her area. This system makes the assignment of work a rather routine process.

Aside from Ms. Von Rueden, and the Agency Director, the unit consists of five (5) full-time Public Health Nurses, one (1) full-time Health Technician, and, at times, the County employs a Migrant Nurse, on a seasonal basis. Ms. Von Rueden spends approximately one and one-half (1 1/2) to two (2) days per week handling a client caseload similar in nature to the caseload of other Public Health Nurses. The balance of her work week is spent reviewing client records. Ms. Von Rueden monitors the records, maintained by the individual Nurses, to assure that they are legally adequate, and to offer her professional advice relative to patient care matters.

Ms. Von Rueden has been assigned the task of conducting the annual evaluations of the other members of the bargaining unit which are reviewed and retained by the Director. The Evaluations have been used as an aid in professional growth and to reinforce good performance rather than a means to determine pay increases or to administer discipline or recommend discharge.

Although, the position of Nursing Supervisor receives approximately 5 per cent more in salary than the position of Public Health Nurse, it appears that this extra compensation is for the greater experience and greater skills required of the Nursing Supervisor.

The position of Nursing Supervisor lacks sufficient indicia of supervisory authority to justify its exclusion from the bargaining unit. Her assignment of work and direction of the work force is largely routine, in light of the Agency organization. Her input into the hiring, firing, and promotional processes is far too dilute, and removed, to be regarded as effective.

Based on all the foregoing, the Commission has included the position in dispute in the aforementioned bargaining unit.

Dated at Madison, Wisconsin this 23rd day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Gary L. Covelli
Gary L. Covelli, Commissioner

3/ Wood County, supra, note 2.