

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 In the Matter of the Petition of :
 MONTELLO COUNCIL OF : Case III
 AUXILIARY PERSONNEL : No. 24933 ME-1707
 : Decision No. 17829-B
 Involving Certain Employees of :
 SCHOOL DISTRICT OF MONTELLO :

Appearances:

Mr. James Yoder, Executive Director, South Central United Educators, 207 West Cook Street, Portage, Wisconsin 53901, appearing on behalf of the Montello Council of Auxiliary Personnel.

Mr. David Friedman, Staff Counsel, Wisconsin Association of School Boards, Room 700, 122 West Washington Avenue, Madison, Wisconsin 53703, on behalf of the School District.

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

School District of Montello having on September 24, 1981 filed a petition requesting the Wisconsin Employment Relations Commission to clarify a bargaining unit of its employes, represented by the Montello Council of Auxiliary Personnel, by determining whether the position of Head Custodian should be excluded from said unit; and a hearing on said petition having been conducted in Montello, Wisconsin on December 9, 1981, by Douglas V. Knudson, an examiner duly appointed by the Commission to conduct said hearing and issue a final decision in accordance with the provisions of Section 227.09(3)(a), Stats.; the record being closed after oral arguments were presented; and the undersigned, having considered the evidence and arguments of the parties, makes and issues the following

FINDINGS OF FACT

1. That the School District of Montello, hereinafter referred to as the District, is a municipal employer, which exists to provide educational services to the inhabitants of the District, and has its offices in Montello, Wisconsin 53949.

2. That the Montello Council of Auxiliary Personnel, hereinafter referred to as the Council, is a labor organization and has its offices at 207 West Cook Street, Portage, Wisconsin 53901.

3. That the Council is the certified exclusive bargaining representative of certain of the District's employes employed in a bargaining unit described as all full-time and regular part-time nonprofessional employes in the employ of the District, including bus drivers, mechanic, secretarial and clerical, aides, cooks and custodians, but excluding managerial, supervisory, confidential and casual employes.

4. That the instant proceeding was initiated on September 24, 1981 by a petition filed by the District, wherein it contends, contrary to the Council, that the position of Head Custodian, currently occupied by Harold Schleicher, is supervisory in nature, and therefore should be excluded from said unit.

5. That the Head Custodian is responsible for directing the work of six other employes; that while he spends a substantial amount of time in performing the same duties as the other custodial employes, he is intimately involved in the District's hiring process with regard to custodial employes; that he effectively recommends the hiring, firing, and discipline of custodial employes to his superior, the Transportation, Buildings and Grounds Supervisor; and, that the head custodian schedules employe work hours, assigns additional work, grants employe

requests for time off, approves vacation requests, authorizes overtime for custodial employes, and, is empowered to resolve grievances at the initial oral step of the grievance procedure.

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

CONCLUSION OF LAW

That the position of Head Custodian is supervisory within the meaning of Section 111.70(1)(o)1 of MERA, and that therefore, said position is not occupied by a municipal employe within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

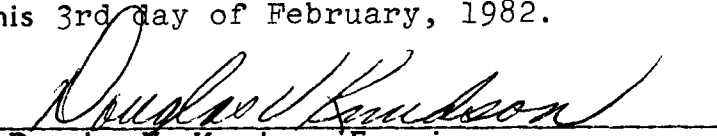
Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the undersigned makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

That the position of Head Custodian be excluded from the bargaining unit described in Finding of Fact No. 3.

Dated at Madison, Wisconsin this 3rd day of February, 1982.

By



Douglas N. Knudson, Examiner

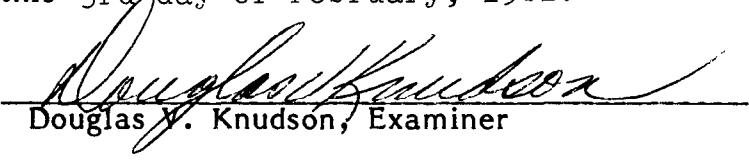
MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT.

In its petition, the District contends that the Head Custodian should be excluded from the bargaining unit as a supervisory employe. The Council alleges that the position should not be excluded because the head custodian does not effectively supervise the custodial employes. Citing the fact that there are only six other custodial employes, the Council argues that if the head custodian position were found to be supervisory in nature, there would be a ratio of two supervisors for six employes.

It is clear from the record, that while the Head Custodian spends the major part of his work day performing duties similar to those of other custodians, he has, in essence, complete control of the day to day decisions affecting the custodial employes. In that capacity, Schleicher grants requests from custodial employes to leave work early, schedules replacements for absent custodial employes, and, authorizes custodial employes to work overtime, without seeking prior approval for such actions from his supervisor. Moreover, the record contains unrebutted evidence that he participates in the interviews of applicants for employment and that his recommendations with respect to the hiring of applicants have been effectively followed on a consistent basis. Based upon these factors as well as the testimony of the Transportation, Building and Ground Supervisor regarding Schleicher's participation in both the discipline and grievance procedures, it is concluded that the position of Head Custodian is supervisory, and therefore, is excluded from the bargaining unit.

Dated at Madison, Wisconsin this 3rd day of February, 1982.

By



Douglas V. Knudson, Examiner