

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 In the Matter of the Petition of :
 :
 ASSOCIATION OF LAW ENFORCEMENT : Case CCXVI
 ALLIED SERVICES PERSONNEL : No. 27406 ME-1962
 : Decision No. 19749
 Involving Certain Employes of :
 :
 CITY OF MILWAUKEE (POLICE :
 DEPARTMENT) :
 :

ORDER DENYING PETITION FOR REHEARING
AND MODIFYING FINDING OF FACT AND
CONCLUSION OF LAW

The Wisconsin Employment Relations Commission having on July 15, 1982 issued Findings of Fact, Conclusions of Law and Direction of Election in the above-entitled matter; and the City of Milwaukee having on August 3, 1982 filed a petition for rehearing pursuant to Sec. 227.12, Stats., asking the Commission to correct certain errors in its decision and to reconsider its conclusion as to the appropriate collective bargaining unit; and District Council 48 having on August 6, 1982 stated its support of said petition; and Association of Law Enforcement Allied Services Personnel having on August 16, 1982 informed the Commission of its opposition to said petition; and the Commission having considered the matter and concluded that the Findings of Fact, Conclusions of Law and Direction of Election should be modified to correct certain errors but that the petition for rehearing should be denied inasmuch as the errors in question do not involve material errors of law or fact;

NOW, THEREFORE, it is

ORDERED

1. That Finding of Fact 7 is modified to read as follows:

7. That employes occupying the classification of Custodial Worker II, Heating and Ventilating Mechanic II, and Maintenance Mechanic are presently included in an existing collective bargaining unit represented by AFSCME: that the City contends that the occupants of the classifications of Building Maintenance Superintendent I and II, Building Maintenance Supervisor, Clerk Steno IV, Law Steno III, and Management Accountant II are either managerial and/or supervisory employes, and that the Physicians are professional employes; and that neither the Association nor the AFSCME, during the course of the hearing, agreed with or disputed said contention, and it was agreed that should the occupants of said classifications presented themselves to vote, their ballots would be subject to challenge unless the parties resolved such issues prior to the balloting.

2. That Conclusion of Law 1.b. be modified to read as follows:

b. All regular full-time and regular part-time employes employed in the Police Department of the City of Milwaukee, excluding law enforcement personnel having the power of arrest, Police Aides, Heating and Ventilating Mechanics, Maintenance Mechanics, Custodial Workers, professional, craft, confidential, managerial and supervisory employes.

3. That footnote 2 on page 5 of the Memorandum Accompanying Findings of Fact, Conclusions of Law, and Direction of Elections be modified to read as follows:


2/ In 1968 the Commission certified AFSCME as the bargaining representative of certain employes of the Building and Grounds Division of the City of Milwaukee Police Department.

4. That the petition for rehearing is denied.


Given under our hands and seal at the City of Madison, Wisconsin this 23rd day of August, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION


By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner



Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING ORDER DENYING PETITION
FOR REHEARING AND MODIFYING FINDING
AND CONCLUSION OF LAW


In its petition for rehearing, the City correctly notes Finding of Fact 7 incorrectly places the position of Garage Attendant in the existing bargaining unit represented by AFSCME. The Commission has modified both Finding of Fact 7 and Conclusion of Law 1.b. to reflect the inclusion of the position in the bargaining unit at issue herein. The City has also correctly noted that the AFSCME unit was established by a Commission decision in 1968 and thus footnote 2 has been corrected to reflect same. However neither of the aforementioned errors of fact are material to the Commission's determination of the appropriate bargaining unit herein. The Commission remains satisfied of the validity of its actions and therefore the petition for rehearing has been denied.

As to the City's contention that the Commission erred by failing to comply with Sec. 227.11(2), Stats., it is noted that a Direction of Election is not a "final order" within the meaning of Sec. 227.12, Stats., and thus Sec. 227.11(2), Stats., is inapplicable.


Dated at Madison, Wisconsin this 23rd day of August, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

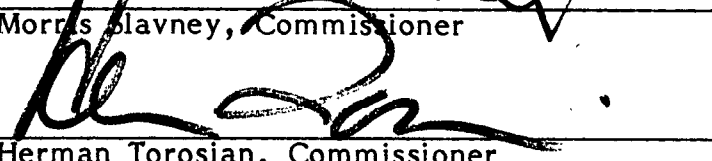
By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner



Herman Torosian, Commissioner