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In the Matter of the Petition of :
DUNN COUNTY :
Involving Certain Employees of :
DUNN COUNTY :
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Appearances:
Mr. John C. Krizek, County Administrator, Dunn County, 800 Wilson Avenue,
 Menomonie, Wisconsin 54751
Mr. Guido Cecchini, Staff Representative, Wisconsin Council 40, AFSCME,
 AFL-CIO, 470 Garfield Avenue, Eau Claire, Wisconsin 54701, appearing on
 behalf of the Union.

Dunn County, having on August 22, 1983, petitioned the Wisconsin Employment Relations Commission to clarify a bargaining unit consisting of all non-professional employees employed by Dunn County in the Social Services Department, excluding all Social Workers, the Basic Services Supervisor and the Director of the Social Services Department 1/ to determine whether the position of Lead Clerical Worker should be excluded from said unit; and a hearing having been held on September 7, 1983 in Menomonie, Wisconsin, before Examiner Edmond J. Bielarczyk, Jr., a member of the Commission's staff; and Wisconsin Council 40, AFSCME, AFL-CIO, the collective bargaining representative for employees in said unit being present; and evidence and oral arguments having been presented on the matter; and a stenographic transcript of the proceedings having been prepared and submitted to the Examiner on September 26, 1983; and the Commission, being fully advised in the premises, makes and issues the following

1. That Dunn County, hereinafter referred to as the County, is a municipal employer maintaining its principle offices at 800 Wilson Avenue, Menomonie, Wisconsin; and, that among its various governmental functions the County operates a Department of Human Services.

2. That Wisconsin Council 40, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization having its principle offices located at 470 Garfield Avenue, Eau Claire, Wisconsin; and, that the Union is the bargaining representative of the bargaining unit consisting of all non-professional employees employed by Dunn County in the Social Services Department, excluding all Social Workers, the Basic Services Supervisor and the Director of the Social Services Department.

3. That the County, contrary to the Union, contends the position of Lead Clerical Worker is a supervisory position and should be excluded from said unit.

4. That in 1980 the County established the position of Lead Clerical Worker; that thereafter the parties agreed upon said position's wages, hours, and working conditions and agreed to include said position in the bargaining unit; that said position is located in the Department of Human Services' Clerical and Business Support Unit; that the incumbent in said position, Carol Afdahl, and a Clerk III report directly to Business Manager Norma Larabee; and that Larabee reports directly to Director John Borup.

5. That the position of Lead Clerical Worker has the following duties and responsibilities:

No. 21198

Takes and transcribes dictation of letters, agenda, memoranda, reports and related materials;

Attends and takes minutes of board, staff and committee meetings;

Distributes minutes, agendas and meeting notifications to designated personnel and/or committee members, schedules meeting rooms;

Composes replies to correspondence in accordance with established procedures;

Prepares a variety of surveys, personnel, financial and administrative reports;

Assembles and organizes support materials for meetings, conferences and correspondence;

Maintains an efficient and effective record and filing system;

Performs various clerical and secretarial functions;

Assists Business Manager in compiling budget data;

Maintains an inventory of agency forms and orders forms as necessary;

Administers checking and savings accounts of foster children;

Supervises and trains new clerical employees under his/her supervision;

Administers Transitional Information System;

Provides clerical services to management in authorizing payments to numerous vendors.

Performs related work as required.

6. That Afdahl has been employed as the Lead Clerical Worker since March, 1981; that Afdahl has a seven and one-half hour workday; that Afdahl spends approximately one (1) hour and forty-five (45) minutes each day directing, monitoring and assigning work to the following employees: Clerk I Susan Stary, Clerk I Rebecca Yamriska, Clerk I Kathryn Baumgardner, one-half time Clerk I Donna Hedlund, Terminal Operator I Esther Rodey, Terminal Operator I Susan Mounce, Medical Records Clerk I Leah Kerg, and Billing Clerk II Diane Bee; that Afdahl spends the rest of her work day on the duties and responsibilities in Finding of Fact 5; that Afdahl performs an annual performance appraisal for said eight (8) employees, which she discusses with the employees individually, and performs a performance appraisal on all probationary employees employed in the Clerical and Support Unit; that upon completion of their probationary period of employment Afdahl recommended that the following employees be granted permanent full-time status: Diane Bee, Kathy Baumgardner, Marty Karnapp, Leah Kerg and Rebecca Yamriska; that Afdahl effectively recommended that two employees not pass their probationary periods and said two employees were discharged; that said two employees were informed of their discharges by Director Borup; that Borup has never retained an employee who has received a bad performance evaluation during their probationary period; that Afdahl participates in the hiring interviews of applicants for positions in the Clerical and Business Support Unit which interviews have occurred on four or five occasions during Afdahl's tenure; that such interviews are conducted by a group of two or three individuals, who then recommend an applicant to the Director; that on filling one part-time position in 1981 Afdahl was the sole person to interview five (5) or six (6) candidates for said position and effectively recommended to the Business Manager and Director that Marty Kanopp be hired; that Afdahl has the effective authority to discipline employees; that Afdahl has given two employees verbal warnings and notices of the warnings were placed in the employees' respective personnel files; that Afdahl has given one employee a written warning; that Afdahl has the effective authority to assign overtime; that Afdahl has the effective authority to approve employee

requests for vacation, compensatory time-off and other reasons for time off; that Afdahl has denied requests for vacation and time off; that the eight employees report absences due to illness to Afdahl; that Afdahl has not resolved any grievances; that Afdahl conducts staff meetings of the eight employees under her direction; and that Afdahl has attended, at County expense, a supervisory training seminar.

7. That Afdahl is paid the same rate of pay as the Clerk III; that Afdahl's current rate of pay is primarily for her skills rather than for her supervision of employees; that Afdahl exercises substantial independent judgment and discretion in supervising employees and their activities; that Afdahl has the authority to recommend effectively the hiring, discharging and disciplining of employees; and, that the position of Lead Clerical Worker possesses supervisory duties and responsibilities in sufficient combination and degree to constitute it to be supervisory.

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

CONCLUSION OF LAW

That the occupant of the position of Lead Clerical Worker is a supervisor within the meaning of Section 111.70(1)(o)1 of the Municipal Employment Relations Act.

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

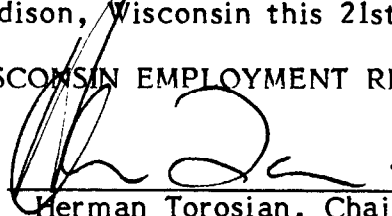
ORDER CLARIFYING BARGAINING UNIT 2/

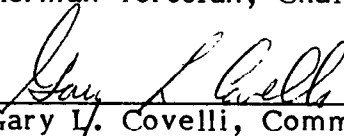
That the position of Lead Clerical Worker is hereby excluded from the bargaining unit set forth in Finding of Fact 2.


Given under our hands and seal at the City of
Madison, Wisconsin this 21st day of November, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner

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- 2/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(Continued on Page four)

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

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

In its petition the County seeks to exclude, as supervisory, the Lead Clerical Worker from the bargaining unit of all non-professional employees employed by Dunn County in the Social Services Department, excluding all Social Workers, the Basic Services Supervisor and the Director of the Social Services Department.

The Commission has defined the indicia of supervisory status to be a sufficient combination and degree of the following factors:

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 or 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. 3/

The Commission has further held that not all these factors need be present, but merely a sufficient number of factors be present. 4/

The position of Lead Clerical Worker was established in 1980 and Afdahl has occupied said position since March, 1981. She directs and assigns the work of seven (7) full-time and one part-time employee. As part of a two or three member group she has participated in five or six hiring interviews. On one occasion she was the only County employee to interview five (5) or six (6) candidates for a part-time position. In said instance the County's Director and Business Manager accepted her recommendation to hire Marty Kunopp. Afdahl also evaluates all probationary employees and effectively recommends either their advancement to full-time status or their discharge. The record demonstrates she has recommended five employees to advance to permanent status and two employees to be discharged. Although Director Borup informed both probationary employees of the discharge decision, he based his decision solely on the recommendation of Afdahl. Further, Afdahl performs an annual performance appraisal of the eight employees under her direction, which appraisal she discusses with the employee.

The record demonstrates that Afdahl has also verbally reprimanded two employees, which actions were documented with copies placed in the employees' personnel files, and that she has given one employee a written reprimand.

Afdahl also has the discretion to schedule overtime, for which employees receive compensatory time, and she has the authority to approve or deny requests for vacation and compensatory time off.

3/ City of New Berlin, 13173-B (8/83); Town of Pewaukee, 20759 (6/83); City of Rice Lake, 20791 (6/83); Manitowoc County (Highway Dept.), 20847 (7/83); and City of Wausau, 20916 (8/83).

4/ City of Rice Lake, 20791 (6/83).

While Afdahl spends at least fifty percent of her time performing her own work duties, some of which are similar to those performed by the employees she directs, she spends at least one hour a day directing and assigning duties and forty-five minutes per day monitoring employees' work performance.

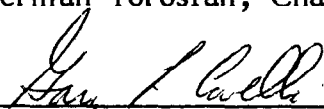
Based on Afdahl's effective recommendations in the past with respect to hiring, firing and advancement of employees, the Commission is persuaded by the record that the Lead Clerical Worker position does possess duties and responsibilities in sufficient combination and degree to establish it as supervisory and therefore said position is excluded from the bargaining unit.

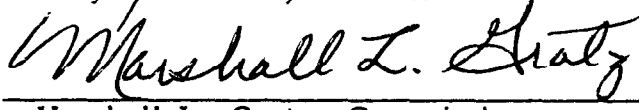
Dated at Madison, Wisconsin this 21st day of November, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner