

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO
Involving Certain Employees of
CITY OF OCONOMOWOC

Case 93
No. 71351
ME-4538

Decision No. 33816-B

Appearances:

Patrick Kilbane, 5th District Field Service Representative, International Association of Fire Fighters, 6847 East County Road N, Milton, Wisconsin 53563, appearing on behalf of the International Association of Fire Fighters.

Ronald S. Stadler, Gonzalez Saggio & Harlan LLP, 111 East Wisconsin Avenue, Suite 1000, Milwaukee, Wisconsin 53202, appearing on behalf of the City of Oconomowoc.

FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER

The International Association of Fire Fighters is the collective bargaining representative of certain employees of the City of Oconomowoc Fire Department. The City, contrary to the Fire Fighters, asserts that the full-time Lieutenant in the Fire Department is a supervisor within the meaning of Sec. 111.70(1)(o)2, Stats. and thus cannot be included in the Fire Fighter bargaining unit.

Hearing on the matter was held on June 6, 2012 in Oconomowoc, Wisconsin by Commission Examiner Peter G. Davis. The parties filed post-hearing argument, the last of which was received July 23, 2012.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

No. 33816-B

FINDINGS OF FACT

1. The City of Oconomowoc, herein the City, is a municipal employer that provides services through its Fire Department.

2. The Fire Department is headed by a Public Safety Director who serves as the “Chief of Police and Fire”. A full-time Fire Department Deputy Chief reports to the Public Safety Director and the disputed full-time Lieutenant reports to the Deputy Chief. Three full-time firefighter/paramedics and one full-time firefighter report to the full-time Lieutenant as do numerous paid on call Department employees.

3. The Department has two stations- one of which houses the Department’s Deputy Chief, a part-time administrative employee and some equipment with the other station serving as the operational headquarters of the Department to which all other Department employees report for work.

4. The International Association of Fire Fighters, herein the Union, is the collective bargaining representative of the three full-time firefighter/paramedics and one full-time firefighter.

5. The full-time Lieutenant primarily functions as a station commander directing the work of the other Department employees as needed.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

The full-time Lieutenant is not a supervisor within the meaning of Sec. 111.70(1)(o) 2, Stats.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER

The full-time Lieutenant is included in the bargaining unit represented by the International Association of Fire Fighters.

Given under our hands and seal at the City of Madison, Wisconsin, this 22nd day of October, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner

CITY OF OCONOMOWOC

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER

Section 111.70(1)(o) 2, Stats. provides:

2. As to fire fighters employed by municipalities with more than one fire station, the term “supervisor” shall include all officers above the rank of the highest ranking officer at each single station. In municipalities where there is but one fire station, the term “supervisor” shall include only the chief and the officer in rank immediately below the chief. No other fire fighter shall be included under the term “supervisor” for the purposes of this sub-chapter.

The record makes clear that the Department has two separate structures that the Department identifies as stations-both of which house Department personnel and equipment. Although the Union correctly argues that only one of the stations is primarily used for the Department’s operations, the standard presence of employees and equipment at both locations persuades us that the City has “more than one fire station” within the meaning of Sec. 111.70(1)(o)2, Stats.

When applying the statutory definition of “supervisor” in the context of “more than one fire station”, the Commission has concluded that only officers who function above the level of a “station commander” meet the statutory definition. City of Waukesha, Dec. No. 11342-A (WERC, 8/83); City of Eau Claire, Dec. No. 19666 (WERC, 8/82); City of Janesville, Dec. No. 12460-A (WERC, 5/74); City of Waukesha, Dec. No. 11342 (WERC, 11/72); City of Wauwatosa, Dec. No. 10956-A (WERC, 6/72). A “station commander” is an officer whose primary responsibility is the day-to-day command of a station as opposed to broader department duties and authority. City of Waukesha, Dec. No. 11342-A (WERC, 8/83).

Here, although (as the City correctly notes) the full-time Lieutenant does have some departmental duties related to budget preparation, grant writing, code compliance and inspection, communications and equipment maintenance, his primary day-to-day responsibility is the “command” of the City’s operational station (Station 1) with the Deputy Chief and the

Director of Public Safety exercising the broader and higher levels of Department-wide authority. Thus, we conclude that the Lieutenant is not a supervisor within the meaning of Sec. 111.70(1)(o) 2, Stats. and therefore is hereby included in the existing Fire Fighter bargaining unit.

Dated at Madison, Wisconsin, this 22nd day of October, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner