

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139  
Involving Certain Employees of  
VILLAGE OF WEBSTER

Case 6  
No. 72822  
ME-5217

DECISION NO 34924-A

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**CERTIFICATION OF RESULTS OF ELECTION**

Pursuant to a Direction of Election previously issued by it in the above-entitled matter, the Wisconsin Employment Relations Commission, on April 21, 2014, conducted an election pursuant to Sec. 111.70(4)(d)3.b. of the Municipal Employment Relations Act, to determine whether employees of the Village of Webster, in the collective bargaining unit set forth in the Commission's Direction, wanted to continue to be represented by the International Union of Operating Engineers Local 139 for the purposes of collective bargaining with the Village of Webster.

The unofficial election results posted April 21, 2014 on the Commission's website indicated that neither of the eligible voters had cast a ballot. On April 24, 2014, the Village of Webster advised the Commission that it had posted the Commission's Notice of Election providing information as to how votes could be cast during the April 1 through 21 balloting period. That same day, International Union of Operating Engineers Local 139 advised the Commission that it had telephonically reminded employees to vote. Both the Village of Webster and the International Union of Operating Engineers Local 139 requested that another election be conducted.

Where, as here, the Notice of Election was posted, we are not persuaded that a new election should be conducted. Particularly in the context of a 20-day period within which votes can be cast, forgetting to vote is an unfortunate circumstance – but also one which we will not remedy. If we were to accept forgetfulness as a valid excuse, election results would always be subject to challenge. Further, such claims could never be adequately tested for truthfulness. Therefore, while we have no reason to doubt that the voters in this instance simply forgot to vote, we will not conduct a new election.

The result of the election was as follows:

1.	Number of eligible voters	2
2.	Total votes cast	0
3.	Votes cast for International Union of Operating Engineers Local 139	0
4.	Votes cast for no representation	0

NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Commission by Sec. 111.70(4)(d)3.b. of the Municipal Employment Relations Act;

IT IS HEREBY CERTIFIED that at least fifty-one percent (51%) of the employees in the Village worker bargaining unit failed to select the International Union of Operating Engineers Local 139 to continue as their bargaining representative.

NOTICE IS HEREBY GIVEN that:

1. If no collective bargaining agreement is currently in effect, the International Union of Operating Engineers Local 139 is no longer the collective bargaining representative as of the date of this Certification. If a collective bargaining agreement is currently in effect, the International Union of Operating Engineers Local 139 ceases to be the collective bargaining representative as of the date that agreement expires.

2. For a minimum of one year from the applicable date in (1) above, the employees shall not be included in a substantially similar collective bargaining unit.

Dated at the City of Madison, Wisconsin, this 29th day of May 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner