

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 139
Involving Certain Employees of
TOWN OF WOODRUFF

Case 7
No. 72819
ME-5214

DECISION NO. 34944-A

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 Town of Woodruff, 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 Town of Woodruff.

The unofficial election results posted April 21, 2014 on the Commission's website indicated that none of the three eligible voters had cast a ballot. On April 23, 2014, International Union of Operating Engineers Local 139 and the voters contacted the Commission and requested that another election be conducted noting that the employees were working long hours during the balloting period. On April 30, 2014, the Town advised the Commission that it had posted and distributed the Commission's Notice of Election providing information as to how votes could be cast during the April 1 through 21 balloting period.

Where, as here, the Notice of Election was posted and distributed, 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	3
2.	Total votes cast	0
3.	Votes cast for the 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 road 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

James R. Scott, Chairman

Rodney G. Pasch, Commissioner