

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

85-061

In the Matter of

Ohio Council 8, American Federation of State,
County and Municipal Employees, AFL-CIO,

Employee Organization,

and

Lucas County Recorder's Office,

Employer,

District 2A Transportation, Technical, Warehouse and
Industrial Service Employees Union

Intervenor.

Case Number: 84-RC-05-1178

DIRECTION OF ELECTION
(Opinion Attached)

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix; October 31, 1985.

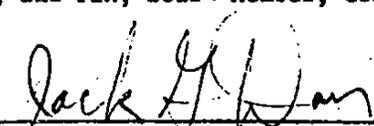
A Petition For Representation Election was filed by Ohio Council 8, American Federation of State, County and Municipal Employees and Local 544 (AFSCME) for a unit of employees of the Lucas County Recorder's Office (Employer). District 2A Transportation, Technical, Warehouse and Industrial Service Employees Union (District 2A) was permitted to intervene. The matter was referred to hearing for consideration of the supervisory status of certain employees.

The Board approves the hearing officer's findings of fact, conclusions of law, and recommendations. The Board directs an election in the unit recommended by the hearing officer. An opinion by the Board relating to the determination of supervisory status is attached and incorporated by reference.

The election shall be held at the date, places and times to be determined by the Administrator of Representation in consultation with the parties. No later than December 5, 1985, the Employer shall file with the Board and serve upon the employee organization an eligibility list stating the names and addresses of all employees eligible to vote as of October 31, 1985.

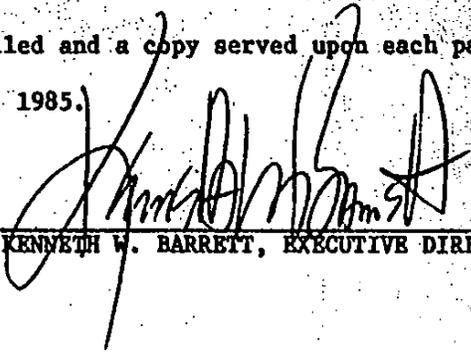
It is so directed.

DAY, Chairman; SHEEHAN, Vice Chairman; and FIX, Board Member, concur.



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party
on this 27th day of November, 1985.


KENNETH W. BARRETT, EXECUTIVE DIRECTOR

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OPINION

Fix, Board Member:

In the instant case, in which a Petition for Representation Election has been filed, the employer seeks exclusion from the unit of two positions on the basis that they are supervisory.

I

In concurring with the Hearing Officer's recommendation that the two positions in question are not supervisory, the Board addresses this issue:

What factors are determinative of supervisory status?

II

Factors that are not determinative are job descriptions and job titles. While not controlling on this Board, the National Labor Relations Board reached this conclusion in Golden West Broadcasters, 215 NLRB 760, 88 LRRM 1053 (1974).

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To qualify as a supervisor, an employee must have the authority to use independent judgment in the interest of the employer. Ohio Revised Code Section 4117.01(F)' enumerates the authority necessary to qualify as a supervisor. However, the several responsibilities are separated by the disjunctive. The Board is not prepared to say at this time how many of these responsibilities must be assigned to that person to qualify as a supervisor.

III

In the final analysis, it is a question of fact in every case. Mossburg vs. Standard Oil Company, 98 N.J. Sup. Ct. 393, 237 A 2d 508, 67 LRRM 2386 (1967), Beverly Enterprises vs. NLRB, 661 F 2d 1095 (6 Cir. 1981).

The Board will continue to determine supervisory status on case-by-case basis.

Day, Chairman, and Sheehan, Vice Chairman, concur.

O.R.C. 4117.01(F):

"Supervisor' means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibility direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature but requires the use of independent judgment, provided, however:...."

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