

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

IN THE MATTER OF THE PETITIONS *
FILED BY *

International Association of *
Firefighters, Local 83 and the *
City of Topeka, for Clarification *
or Amendment of the Appropriate *
Unit for Certain Employees of *
the City of Topeka Fire Department *

CASE NOS: 75-UCA-1-1983
75-UCA-2-1983

ORDER

Comes now this ^{16th} day of Jan., 1984, the above captioned matter for determination by the Public Employee Relations Board.

APPEARANCES

International Association of Firefighters, Local 83 appears by and through its counsel, Mr. John C. Frieden, Ralston and Frieden, P.A., Attorneys at Law, 112 S.W. Sixth Street, Topeka, Kansas 66603.

City of Topeka appears by and through its counsel, Mr. R. E. "Tuck" Duncan, Assistant City Attorney, City of Topeka, City Building, 214 East Eighth Street, Topeka, Kansas 66603.

PROCEEDINGS BEFORE THE BOARD

1. Petition (75-UCA-1-1983) for unit clarification/amendment filed by International Association of Firefighters (I.A.F.F), Local 83 on September 29, 1982.
2. Petition submitted to City of Topeka for answer on September 30, 1982.
3. Request for extension of time in which to answer, submitted by City of Topeka on October 7, 1982.
4. Request for extension of time granted by Jerry Powell on October 8, 1982.
5. Answer of City of Topeka received by Public Employee Relations Board on October 12, 1982.
6. Answer of City of Topeka submitted to I.A.F.F. Local 83 on October 14, 1982.
7. Preliminary matters of timeliness and effective date of any resultant order scheduled before entire Public Employee Relations Board at their regular meeting on November 22, 1982.

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8. Briefs on preliminary matters received: City of Topeka - November 18, 1982
International Association of
Firefighters Local 83 - November
19, 1982.
9. Petition (75-UCA-2-1983) for unit clarification/amendment filed by City of Topeka on December 15, 1982.
10. Petition submitted to I.A.F.F. Local 83 for answer on December 15, 1982.
11. Request for extension of time in which to answer, submitted by I.A.F.F. Local 83 on December 27, 1982.
12. Answer of I.A.F.F. Local 83 received by Public Employee Relations Board on January 4, 1983.
13. Answer of I.A.F.F. Local 83 submitted to City of Topeka on January 6, 1983.
14. Petitions consolidated by Public Employee Relations Board on January 11, 1983, parties notified by certified mail.
15. Formal hearing conducted before Jerry Powell, Hearing Examiner on January 19 and 20, 1983.
16. Briefs submitted by parties: City of Topeka - May 25, 1983
I.A.F.F. Local 83 - October 24, 1983. *(NOTE:
I.A.F.F. Local 83 brief held in abeyance pending
potential mutual resolution of issues by the parties.)
17. Rebuttal brief submitted to Public Employee Relations Board by the City of Topeka on November 8, 1983.
18. Rebuttal brief submitted by Public Employee Relations Board to I.A.F.F. Local 83 on November 10, 1983.

FINDINGS OF FACT

1. That pursuant to K.S.A. 75-4321 et seq., I.A.F.F. Local 83 is the certified representative of sworn personnel of the City of Topeka Fire Department.
2. That the City of Topeka is the public employer as defined at K.S.A. 75-4322(f).
3. That the positions of District Chief and Battalion Chief are currently excluded from the bargaining unit represented by I.A.F.F. Local 83.
4. That the position of Captain is currently included in the bargaining unit represented by I.A.F.F. Local 83.
5. That the position of Communications Officer II is currently included in the bargaining unit represented by I.A.F.F. Local 83.
6. That Battalion Chiefs, District Chiefs and Captains do not have the authority to hire their subordinates. (T - 91, 167, 319, 693)

7. That at least one Battalion Chief has effectively recommended the hiring of a firefighter. (T - 693, 694)
8. That there is conflicting testimony as to whether recommendations from Battalion and District Chiefs with regard to hiring have been solicited by upper management. (T - 168, 426, 693)
9. That the Civil Service Board prepares a list of individuals eligible for employment in the Topeka Fire Department. (T - 693)
10. That Battalion Chiefs, District Chiefs and Captains do not have the authority to fire their subordinates. (T - 96, 167-170, 319, 450)
11. That Battalion Chiefs, District Chiefs and Captains do not have the authority to promote their subordinates. (T - 167-170, 707)
12. That Battalion Chiefs, District Chiefs and Captains conduct evaluations of their probationary subordinates. (T - 95, 246, 454)
13. That Battalion Chiefs can and do make recommendations for merit raises for District Chiefs through the evaluation process. (T - 695)
14. That District or Battalion Chiefs evaluate Captains for promotion purposes. (T - 454, 568)
15. That Captains evaluate probationary lieutenants.
16. That evaluations for bargaining unit personnel do not result in merit increases.
17. That Battalion Chiefs, District Chiefs and Captains do not fully understand the purpose of the evaluations they conduct. (T - 202, 325, 455, 707)
18. That Battalion Chiefs and District Chiefs have the authority to assign and transfer their subordinates on a daily basis, in accordance with the contract between the City of Topeka and I.A.F.F. Local 83. (T - 96, 172, 248, 412, 442, 706)
19. That Captains have no authority to transfer employees on a daily basis, or at any time. (T - 316, 517)
20. That Battalion Chiefs make requests for the permanent transfer of personnel to the Assistant Chief. (T - 114)
21. That the Assistant Chief of Operations considers transfer recommendations from District and Battalion Chiefs to be effective recommendations. (T - 602)
22. That the Assistant Chief reviews transfers with the Battalion Chief before the transfer is permanently made. (T - 115, 223)
23. That Captains make no recommendations regarding transfers. (T - 517)
24. That the Assistant Chief of Operations does not rely on the judgment of Captains in the decision to transfer personnel. (T - 600)
25. That some transfer requests by Battalion Chiefs are not granted. (T - 115)

26. That transfers have been made which affect particular District Chiefs but without soliciting that Chief's opinion. (T - 707)
27. That a Battalion Chief has objected to a particular transfer and it was made anyway. (T - 116)
28. That Battalion Chiefs may discipline subordinates to the extent that they may suspend an employee for one day. (T - 100, 247, 450, 481, 652)
29. That Captains do not have the authority to suspend or reprimand. (T - 515)
30. That Battalion Chiefs and District Chiefs have the authority to issue an oral reprimand. (T - 97, 273, 445, 469, 476, 653, 715)
31. That Battalion Chiefs have issued written reprimands under the direction of the Chief or the Assistant Chief. (T - 294, 375)
32. That an employee was suspended from a Battalion Chief's unit, without the involvement of the Battalion Chief. (T - 168)
33. That Battalion Chiefs have the authority to issue written reprimands. (T - 371, 653)
34. That Battalion Chiefs do not believe they have the authority to issue written reprimands. (T - 226, 415, 707)
35. That the Fire Chief informed one Battalion Chief that he (the Battalion Chief) did not have the authority to issue written reprimands. (T - 114)
36. That it is the duty of the District Chiefs to point out possible infractions of rules. (T - 442, 713, 714)
37. That in February of 1982, a Battalion Chief was selected to prepare a list of the duties and responsibilities of Battalion Chiefs for reclassification purposes. (T - 27)
38. That the list referenced in finding of fact number thirty-seven (37) includes the following duties. (T - 123, Respondent's exhibit)
 - a. enforces all fire department rules, regulations, interdepartmental communications and general orders.
 - b. directs officers to carry out the pre-site inspection program.
 - c. directs company officers to schedule hydrant maintenance work.
 - d. maintains manning levels, based on the contract.
 - e. reassigns personnel when manning is inadequate.
 - f. directs District Chiefs to inspect station building and fire department equipment.
 - g. may devise solutions to misunderstandings regarding Fire Department policy and rules and regulations.
 - h. may issue oral reprimands.

- i. fills out a yearly evaluation report on the District Chiefs.
- j. directs all fire suppression operation.
- k. recommends permanent personnel transfers to the Assistant Chief of Personnel.

39. That a District Chief was selected to prepare a list of duties performed by District Chiefs for reclassification purposes. (T - 354)

40. That the list referenced in finding of fact number thirty-nine (39) sets forth the following duties of District Chiefs. (Respondent's Exhibit 9, T - 438)

- a. assures manning of companies, transfers employees,
- b. maintains records and prepares reports relating to daily operations,
- c. interprets rules and regulations for Captains and Lieutenants,
- d. identifies possible infractions of rules and regulations,
- e. schedules and monitors pre-fire planning and hydrant maintenance,
- f. inspects buildings, grounds and repaired vehicles, coordinates leave,
- g. evaluates suppression personnel under his/her jurisdiction,
- h. issues oral reprimands, recommends more severe disciplinary action when necessary,
- i. directs all fire scenes.

41. With the permission of the Chief or Assistant Chief, the Battalion Chief or District Chief may call additional personnel back to duty for overtime pay. (T - 32)

42. District Chiefs and Battalion Chiefs have been asked on occasion to give input or make recommendations in regard to department policy. (T - 41)

43. Recommendations by Battalion Chiefs have occasionally been accepted. (T -422, 432, 447-449)

44. Battalion and District Chiefs have served occasionally on management committees. (T - 48, 65)

45. Management policy decisions have occasionally been made without soliciting input from District and Battalion Chiefs. (T - 42)

46. Battalion and District Chiefs have occasionally made recommendations that were not accepted by the city or upper management in the fire department. (T - 43-44, 62-64, 95, 190)

47. District and Battalion Chiefs do not have the authority to layoff their subordinates. (T - 91, 245, 378)

48. That Battalion Chiefs and District Chiefs have the authority to grant emergency, funeral and special leaves. (T - 116, 199, 417)

49. That Captains cannot grant any kind of leave. (T -318)

50. That Battalion Chiefs normally perform work that is different from their subor-

dinates. (T - 121)

51. That the Fire Chief and Assistant Chiefs normally work eight (8) hours per day.
(T - 139)

52. That Battalion Chiefs are in charge of the Fire Department in the absence of
Fire Chief and the Assistant Chiefs. (T - 139)

53. That the authority of Battalion Chiefs is limited with regard to calling in specialty
personnel. (T - 142, 430-432)

54. That the District Chiefs assume the duties of Battalion Chiefs in their absence.
(T - 140)

55. That Battalion Chiefs work with their subordinates to resolve grievances before
they become formalized. (T - 205, 377)

56. That District and Battalion Chiefs occasionally submit budget requests. (T - 189)

57. That Battalion Chiefs rely on Captains' judgment in the evaluation of probation-
ary employees. (T - 207)

58. That with the consent of the Chief or Assistant Chief, Battalion Chiefs can gain
access to the personnel files of their subordinates. (T - 213, 278, 379)

59. That the Assistant Chief in charge of operations believes he has authority to
grant access to personnel files only to the District and Battalion Chiefs.

60. That each district has either a Battalion Chief or a District Chief on duty at
all times. (T - 238)

61. That District Chiefs inspect the work of Captains at the fire stations and in the
field. (T - 268)

62. That Battalion and District Chiefs perform numerous duties which are routine
or clerical and require little independent judgment. (T - 289, 460-462)

63. That District Chiefs have the ultimate authority at the scene of a fire. (T - 306)

64. That District Chiefs use independent judgment in the exercise of authority at
a fire scene. (T - 307)

65. That a Captain is assigned to each company. (T - 310)

66. That Captains report manning situations to the District or Battalion Chief daily.
(T - 311)

67. That Captains check to see that subordinate firefighters have cleaned the fire
trucks and stations. (T - 311)

68. That Captains do not attend management meetings. (T - 315)

69. That City Ordinance 14634, effective April 28, 1980, contains a job description
for District Fire Chiefs. (Respondent's Exhibit 5)

70. That the job description referenced in finding of fact number sixty-nine (69) defines

the position of District Chief as follows:

"This is responsible supervisory work of considerable difficulty involving directing the activities of a number of fire suppression companies within an assigned district. The incumbent's work is carried out with latitude for exercising independent judgment in commanding forces and equipment at the scene of fires to insure the protection of life and property. The employee in this class requisitions supplies and equipment and reports malfunctioning equipment. Work involves responsibility to assure that companies in the district under the employees command have the proper number of personnel at all times and that the personnel are properly trained. The District Fire Chief exercises general supervision over the Captains in the specific Fire District placed directly and immediately under the District Fire Chief's command. Work is performed under the general direction of an Assistant Fire Chief. This description refers to the District Fire Chief classifications that PERB ruled as supervision/management." (City ordinance 14634)

71. A Battalion Chief would not assume command at the scene of a fire if a District Chief was in charge. (T - 419)

72. A Battalion Chief would assume command at the scene of a fire if a Captain was in charge.

73. That Communications Officers II do not supervise anyone within the bargaining unit.

CONCLUSIONS OF LAW - DISCUSSION

In petition number 75-UCA-1-1983, I.A.F.F. Local 83 has requested the inclusion of Battalion Chiefs and District Chiefs in the unit of sworn firefighters of the City of Topeka. Respondent in his answer claims that in 1980 the Battalion and District Chiefs acknowledged their supervisory status and that the duties and authorities of these positions have not materially changed since the Public Employee Relations Board issued its unit determination order (75-UDC-10) in 1979. Further, respondent claims that redefinition of the appropriate unit is premature due to the fact that a contract is in force and effect until January of 1984. On November 22, 1982 the Public Employee Relations Board ruled that the petition was not premature and directed the PERB staff to proceed with the petition.

The City of Topeka has filed petition 75-UCA-2-1983 requesting that Captains and certain T-Com personnel be added to the list of positions excluded from the bargaining unit represented by I.A.F.F. Local 83. Respondent in his answer claims the petition by the City was filed for the sole purpose of harassing the employee organization.

As a preliminary matter, the examiner believes that the motives behind filing a petition for unit amendment are irrelevant. If the petition had not posed a legitimate question, it would have been summarily dismissed. In the instant case, both petitions have asked for a reexamination of certain positions in the fire department in order to determine whether these positions are "supervisory" as defined by the statute.

K.S.A. 75-4321 sets forth the rights and duties of public employers, employees and

their representatives. The definitions set forth at K.S.A. 75-4322 provide the guidelines for determining who is subject to the provisions of the Public Employer-Employee Relations Act (PEERA). The definitions pertinent to the instant case are those that state the meaning of the "public employee" and "supervisory employee." The statute states:

K.S.A. 75-4322(a) "'Public employee' means any person employed by any public agency, except those persons classed as supervisory employees, professional employees of school districts, as defined by subsection (c) of K.S.A. 72-5413, elected and management officials and confidential employees."

K.S.A. 75-4322(b) "'Supervisory employee' means any individual who normally performs different work from his or her subordinates, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. A memorandum of agreement may provide for a definition of 'supervisory employees' as an alternative to the definition herein."

The classifications in the Topeka Fire Department that are to be addressed by this order include: Battalion Chief, District Chief, Captain and Communication Officer II. The examiner will address each classification separately in light of the foregoing definition of "supervisory employee."

BATTALION CHIEFS

Performance of work that is different from his or her subordinates.

The list of duties set forth at finding of fact number thirty-eight (38) indicates that the primary duties of a Battalion Chief are coordination and direction of firefighting duties including temporary reassignment of firefighters to maintain required manning levels and numerous other administrative tasks. In the opinion of the examiner, it is clear from the list of duties that Battalion Chiefs do not normally engage in basic firefighting duties. For example, it appears that they do not normally ride the fire trucks to the scene of a fire, lay hose or enter burning buildings in the attempt to rescue victims or extinguish fires. Therefore, the examiner believes that Battalion Chiefs do normally perform work that is different from the work performed by his or her subordinates.

Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees.

The record indicates that Battalion Chiefs have no authority to hire, lay off, recall, promote, discharge, or reward their subordinates. However, the examiner believes that the authority to carry out these functions is not the sine qua non in determining whether one is a supervisor under the Act. If Battalion and District Chiefs did have these powers, the examiner would certainly consider these factors as evidence of supervisory status. However, the absence of authority to carry out these functions does not preclude the finding

that one is a supervisor. Otherwise, the Board would not be able to find anyone other than the City Commission to be supervisors. This clearly would interrupt the efficiency of city governmental operations. The legislature understood this unique phenomenon in public employment thus they spoke to effective recommendations. Therefore, the examiner believes that the performance of a preponderance of the actions or the effective recommendations of such actions, identified in the definition of supervisors, as well as governmental efficiency considerations, will shape the final determination in this matter.

Transfers

The record indicates that Battalion Chiefs and District Chiefs possess limited authority in the areas of transfers and suspensions. Battalion and District Chiefs transfer their subordinates on a daily basis in order to maintain manning levels in accordance with the labor contract. The record indicates that the Assistant Chief reviews transfers with the Battalion Chief before the transfers are permanently made. However, the recommendations of Battalion Chiefs with regard to transfers are solicited.

The examiner is convinced that while the daily transfer of personnel conducted by the Battalion and District Chiefs is routine in character, it is made so by labor contract requirements. The manning requirements are clearly spelled out in the labor contract, thus there is little room for discretion. One must remember, however, that contract requirements change from contract to contract thus the amount of discretion for transfer may change in future contracts. While input on personnel transfers is solicited from the Battalion Chiefs, it is primarily limited to objections to transfers initiated by the Assistant Chief. Occasionally, the Assistant Chief disregards the objections. While the examiner recognizes transfer authority by Battalion Chiefs and District Chiefs to be limited he is persuaded that Battalion Chiefs and District Chiefs can and do make effective recommendations on transfers.

Suspend, Discipline

The record indicates that Battalion and District Chiefs possess limited authority to discipline their subordinates. Both may issue oral reprimands and, under the direction of or with the consent of the Assistant Chief, they may issue written reprimands. Furthermore, the record indicates that the Assistant Chief relies on the Battalion and District Chiefs to report infractions of departmental rules and regulations. In the opinion of the examiner, the reporting of infractions creates a critical distinction between management and labor. This function is especially critical when those who rely on this information are not present at all times that the employees are on duty.

The record also indicates that Battalion and District Chiefs have the authority to suspend for one day. The examiner believes that the limitation of authority to suspend

does not undermine the supervisory nature of this function. The examiner further believes that this function must reside with individuals who are on duty at all times.

An individual must be on hand to identify and resolve serious personnel problems such as the hypothetical situation when an employee reports to work intoxicated. The record indicates that Battalion and District Chiefs have been delegated the authority to deal with such matters.

The examiner finds it noteworthy that the Fire Chief has testified that Battalion Chiefs have the authority to issue written reprimands. However, a Battalion Chief has testified that he was told by the Fire Chief that he did not have the authority to issue a written reprimand. The examiner believes the lack of communications in the Topeka Fire Department critically needs to be addressed so that all personnel play by the same rules, so to speak.

Rewards

While the collective bargaining contract and the rules of Civil Service appear to remove the potential for individual rewards, the record indicates that rewards do stem from the evaluation process for non-bargaining unit personnel. Battalion Chiefs evaluate District Chiefs for the purpose of awarding merit increases. Battalion and District Chiefs evaluate Captains for promotion purposes. The examiner is aware that Battalion Chiefs and District Chiefs have testified that they do not know the purpose of the evaluations they conduct. Once again, this situation illustrates the lack of communications at the Topeka Fire Department.

Responsible Direction of Employees

The examiner believes without question that the District and Battalion Chiefs perform this vital duty in the Topeka Fire Department. Either a District or Battalion Chief is responsible for directing the firefighters at the scene of a fire. The examiner understands that a fire attack is procedurally defined. However, someone must be present to see that procedures are followed. Since firefighting is the central reason for the existence of a Fire Department, it seems that direction of personnel at the fire scene is the most responsible and imperative work performed in the department. In addition, it is quite clear that Battalion and District Chiefs exercise independent judgment at the fire scene.

While procedures may guide them, the appropriate procedures to follow are determined by the Battalion and District Chiefs. For example, the severity of a fire and the need for additional firefighters or specialty personnel are reliant on the perception and judgment of a District or Battalion Chief.

In summary, the examiner must conclude that District and Battalion Chiefs are supervisors for the purposes of the PEERA. While they do not have the authority to perform

many duties ordinarily delegated to supervisors, they do perform two vital supervisory functions - reporting infractions and directing firefighters at the scene of a fire. In addition, District and Battalion Chiefs normally perform work that is different from the work performed by their subordinates. The record also clearly shows that they can and do make recommendations in the areas of transfer and suspension.

The examiner has not spoken to the issue of input into managerial policy. The reason for this omission is that input into policy is irrelevant to the determination that one is a supervisor. When the Act defines "supervisor," it refers to effective recommendations regarding personnel decisions that relate to a particular employee. The examiner does not believe that supervisors, by definition have a right to have input into policies that would affect employees under another supervisor's control. However, the examiner supports the practice of participative decision making particularly from those who must implement and enforce the policies.

Captains

Performance of work that is different from his or her subordinates. The record indicates that Captains are "in charge of" the station, grounds and equipment assigned to his or her company. Captains insure that these areas are maintained and operated in accordance with departmental rules and regulations. The examiner notes that the record does not describe the duties of subordinates, thus no thorough comparison of duties can be made. The examiner can only speculate that the work assigned by Captains is subsequently performed by the Captains' subordinates. The examiner is also persuaded that work relating to maintenance of the station, grounds and equipment is more routine than directing firefighters at the scene of a fire, for example. It appears that there is less need for individual judgment in the work performed by Captains. Therefore, the examiner believes that while the work of Captains is somewhat different from the work performed by his or her subordinates, this distinction contributes little to the finding that Captains are supervisors.

Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline.

The record reflects that Captains have very limited authority in a few of these areas and have no authority in the remaining areas. Captains have no authority to hire, transfer, suspend, lay off, recall, promote, or discharge their subordinates. The departmental regulations refer very generally to disciplinary authority; however, the record reflects that Captains may not suspend or issue written or oral reprimands. Captains may not authorize leave. Captains do not have the authority to reward their subordinates, except for evaluations of probationary Lieutenants. The record does not indicate that Captain's evaluations are

used for rewards such as promotions or merit increases.

The examiner is aware that Captains may direct the work of firefighters at the scene of a fire. However, the record indicates that the authority of the Captain is removed upon the arrival of a District or Battalion Chief.

Communications Officers II

The examiner found it necessary to find only one fact which relates to Communications Officers II. These individuals do not supervise anyone within the bargaining unit. The examiner has always held that the term "supervisor" under the Act contemplates supervision of bargaining unit personnel. One need look only to the reasons for excluding supervisors to reach this conclusion. The inclusion of supervisors would undermine the efficiency of government and the internal administration of the employee organization. Supervisory membership in a bargaining unit can either create a comradery between supervisors and subordinates that would result in ineffective supervision or supervisors' domination of the employee organization. Supervisor domination is tantamount to employer domination of the organization. The examiner believes that the Act contemplated the elimination of either alternative by requiring the exclusion of supervisors.

SUMMARY

A. Battalion and District Chiefs

The examiner is convinced that Battalion and District Chiefs are supervisors under the Public Employer-Employee Relations Act. The examiner bases his conclusions on the following facts:

1. There is a District or Battalion Chief on duty at all times.
2. District and Battalion Chiefs are in charge of the department in the absence of the Chief and Assistant Chiefs. This generally would mean that time period between the hours of 5 PM and 8 AM, Monday through Friday and twenty-four (24) hours per day on Saturdays and Sundays.
3. District and Battalion Chiefs make evaluations of their subordinates which may lead to rewards.
4. District and Battalion Chiefs may issue reprimands and suspend for one day.
5. District and Battalion Chiefs transfer employees daily and have input into permanent transfers.
6. The Assistant Chief relies on District and Battalion Chiefs to report infractions of the rules.
7. District and Battalion Chiefs direct firefighters at the scene of a fire. No superior officer could or would usurp that authority.
8. Battalion and District Chiefs perform a preponderance of the duties described

in the "supervisor" definition in the Act. This determination is based not on counting the duties and applying a fifty-one percent (51%) rule. Rather, it is based on the relative importance of the duties performed.

B. Captains

Based on the following reasons, the examiner is convinced that Captains are not supervisors under the Act.

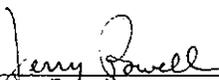
1. Captains have very little authority over their subordinates, other than to notify the District or Battalion Chiefs of problems.
2. The types of duties assigned and directed by Captains are routine in nature.
3. There is always a superior officer on duty who is responsible for solving problems identified by the Captain and assuming authority at the scene of the fire.
4. Captains perform virtually none of the duties identified as "supervisory" under the Act.

C. Communications Officers II

The examiner concludes that Communications Officers II are not supervisors because their subordinates are not included in the bargaining unit.

RECOMMENDATIONS

Based on the foregoing, it is the recommendation of the hearing examiner that Battalion Chiefs and District Chiefs be excluded from the appropriate bargaining unit of firefighters in the City of Topeka. It is further recommended that Captains and Communications Officers II be included within the appropriate bargaining unit of firefighters in the City of Topeka. It is so recommended this 7th day of DEC , 1983.



Jerry Powell
Hearing Examiner
Public Employee Relations Board
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