

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

American Federation of State, County)	
and Municipal Employees, Council 31,)	
)	
Petitioner)	
)	Case No. L-RC-15-008
and)	
)	
City of Chicago, Department of Buildings,)	
)	
Employer)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

On October 21, 2015, ALJ Thomas Allen issued a Recommended Decision and Order (RDO) in which he determined that the Assistant Chief Engineer of Sewers employed by the City of Chicago (Employer) in its Department of Buildings is a public employee within the meaning of Section 3(n) of the Illinois Public Labor Relations Act, 5 ILCS 315/3(n) (2014), as amended. The ALJ rejected the Employer’s contention that the position is supervisory within the meaning of Section 3(r) of the Act and recommended that the position be added to the Unit #4 bargaining unit represented by the American Federation of State, County and Municipal Employees, Council 31 (Union).

The ALJ initially noted that under Section 3(r), employees are supervisors if they (1) perform principal work substantially different from that of their subordinates; (2) have the authority, in the interest of the employer, to perform any of the enumerated supervisory functions; (3) consistently use independent judgment in performing those functions; and (4) spend a preponderance of their time exercising that authority. Chief Judge of Circuit Court of

Cook Cnty. v. Am. Fed'n of State, Cnty. and Mun. Emps., Council 31, AFL-CIO, 153 Ill. 2d 508, 515 (1992).

The ALJ then held that the principal work of the Assistant Chief Engineer of Sewers, Basil Rhymes (Rhymes), is substantially different from that of his subordinate engineers. With respect to the supervisory indicia, the ALJ first held that Rhymes directs his subordinates with independent judgment when he assigns work, approves time off, and evaluates his subordinates' performance, but not when he reviews his subordinates' work and answers their questions. According to the ALJ, Rhymes assigns work with independent judgment because he considers his subordinate engineers' skill and experience in making the assignments. Rhymes approves time off with independent judgement because he must ensure there is sufficient staff at work so that the section can quickly issue permits that comply with the Chicago Municipal Code. Further, Rhymes completes performance evaluations with independent judgment because the evaluations are a product of Rhymes's own choices. By contrast, the ALJ reasoned that Rhymes's review of his subordinates' recommendations to issue permits lacks independent judgment because it is based on Rhymes's superior skill, knowledge, and expertise as an engineer. The ALJ further concluded that Rhymes has authority to impact his subordinates' terms and conditions of employment through his evaluations because the Department Commissioner uses them in deciding whether to grant employees merit pay increases.

Second, the ALJ found that Rhymes disciplines his subordinates with independent judgment when he issues oral reprimands because the record of the oral reprimand is placed in the employees' personnel file and becomes the basis for more severe discipline. The ALJ rejected the Employer's contention that Rhymes effectively recommends greater levels of discipline, and the Employer did not except to this finding.

Third, the ALJ found that Rhymes effectively recommends the reward of his subordinates when he recommends that employees receive merit increases. Rhymes includes such recommendations along with his evaluations, forwards them to his supervisor, who agrees or disagrees, and then sends the recommendation to Commissioner Felicia Davis, who makes the ultimate decision. The ALJ reasoned that Rhymes's recommendations are effective because Davis relies heavily on the information he provides her.

Fourth, the ALJ rejected the Employer's contention that Rhymes adjusts grievances with independent judgment.

Finally, the ALJ determined that Rhymes does not spend a preponderance of his work time performing supervisory functions under either a quantitative or a qualitative test. Applying the quantitative test, the ALJ reasoned that Rhymes spends only 25% of his time on supervisory functions because he spends 50% of his time performing non-supervisory review of his subordinates' work and 25% of his time meeting with contractors and consultants. Applying the qualitative test, the ALJ accepted the Employer's contention that Rhymes's review of his subordinates' work is one of his most important tasks, but observed that such review is non-supervisory.

Pursuant to Section 1200.135(b) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b), the Employer filed timely exceptions to the RDO and also made a request for oral argument.¹ The Union filed a response and cross-exceptions. The Employer filed a response to the Union's cross-exceptions.

The Employer primarily argues that the ALJ erred in concluding that Rhymes does not

¹ We deny the Employer's request for oral argument because this case does not present complex or novel issues of law. Byron Fire Protection District, 31 PERI ¶ 134 (IL LRB-SP 2015); Wholesale and Dep't Store Union (Otis), 26 PERI ¶45 (IL LRB-LP 2010).

direct his subordinates with independent judgment when he answers their questions and reviews their work. The Employer cites Board and Appellate Court precedent for the proposition that a superior's review of a subordinates work is supervisory where the review entails the exercise of discretion and furthers the employer's interests. The Employer argues that this proposition holds true even if the reviewer relies on his superior experience, skill, and technical expertise. Relying on this precedent, the Employer argues that the ALJ erred in finding that Rhymes does not spend a preponderance of his time engaged in supervisory functions because the ALJ erroneously omitted from consideration the time Rhymes spends reviewing his subordinates' work.

The Union counters that the ALJ's ultimate conclusion is sound and supported by case law from the Illinois Supreme Court, which provides that an employee does not direct subordinates with independent judgment in the interests of his employer when the direction is the result of his superior skill, knowledge and experience. It further argues that the Board should disregard the Employer's attempts to analogize this case to others that the Board and the courts have decided because the supervisory analysis is a fact-intensive determination made on a case-by-case basis.

In the alternative, the Union argues that Rhymes would fail to meet the definition of a supervisor in any event because he does not have significant discretionary authority to impact his subordinates' employment in areas likely to fall within the scope of union representation. To that end, the Union asserts that the ALJ erred in finding that Rhymes has authority to direct his subordinates with independent judgment when he assigns work, approves vacation time, and evaluates his subordinates. Similarly, the Union asserts that the ALJ erred in finding that Rhymes has supervisory authority to discipline his subordinates with independent judgment when he issues oral reprimands. Next, the Union claims that the ALJ erred in finding that

Rhymes has the supervisory authority to reward his subordinates by effectively recommending merit increases. With respect to each of these indicia and sub-indicia, the Union asserts that there is insufficient record evidence to support the ALJ's assertion because there was either no testimony on the subject matter or the testimony was too vague and generalized to support the conclusion.

For the reasons that follow, we reverse the ALJ's conclusion that Assistant Chief Engineer of Sewers Basil Rhymes is a public employee and find, contrary to the ALJ, that Rhymes spends a preponderance of his work time engaged in supervisory functions. In so holding, we reverse the ALJ's conclusion that Rhymes does not direct with independent judgment when he reviews his subordinates' work, but we affirm other parts of his analysis as outlined below. Specifically, we affirm the ALJ's findings that Rhymes directs his employees with independent judgment when he approves their requests for time off and when he evaluates their performance. We likewise affirm the ALJ's findings that Rhymes effectively recommends the reward of his subordinates. In consideration of these findings, we conclude that Rhymes likewise satisfies the preponderance of time requirement.

As a preliminary matter, we find merit to the Employer's exceptions that the ALJ erred when he determined that Rhymes does not exercise independent judgment in the interests of the Employer when he directs his subordinates by reviewing their work and answering their questions. The Union correctly observes that the ALJ expressed a broad statement of law that is drawn from Illinois Supreme Court case law in City of Freeport. City of Freeport v. Ill. Labor Rel. Bd., 135 Ill. 2d 499, 518-519 (1990)(direction that "derived from [alleged supervisors'] superior skill, experience and technical expertise...did not require the use of independent judgment"). However, both the State Panel and the Courts have previously distinguished

Freeport, and the facts of this case weigh in favor of that approach here.

For example, in State of Illinois Department of Central Management Services (Department of Employment Security), the Board found that tax audit supervisors performed supervisory review of their subordinates work when they ensured that their subordinates obtained and assessed appropriate audit-related information in accordance with statutory and departmental policies and procedures. State of Ill. Dep't of Cent. Mgmt. Servs., 11 PERI ¶ 2021 (IL LRB-SP 1995). The Board noted that the time spent by those employees conferring with their subordinates concerning the application of and case law and of the employer's standards required the consistent use of independent judgment. Id. To that end, it reasoned that the employees' decisions were driven by a desire to effectuate the policies established by their employer rather than by industry wide, professional norms and standards, at issue in City of Freeport. Id.

In addition, the Appellate Court recently reversed the State Panel's inclusion of engineers in the bargaining unit and rejected the Board's contention that the engineers' review of their subordinates' work was non-supervisory where it was based on their superior skill, knowledge, and experience in the field. Cent. Mgmt. Services (Dep't of Natural Resources and Environmental Protection Agency) v. Illinois Labor Relations Bd. ("DNR/ EPA"), 2012 IL App (4th) 110013 ¶ 90. In so holding, the Court extensively described the tasks it considered to be supervisory. Id. at ¶ 66, ¶ 68, ¶ 69. Specifically, the Court reasoned that the petitioned-for engineers exercised independent judgment in reviewing their subordinates work when they answered questions as to how their subordinates should proceed in cases involving code ambiguities or in cases that had broad policy implications. Id. Likewise, the Court found the engineers exercised independent judgment when they reviewed their subordinates' reports to

ensure that they conformed to statutes, administrative regulations and agency policies. Id. Although the Court did not expressly distinguish City of Freeport, we find it reasonable to infer that the Court viewed engineering duties as facially dissimilar to the firefighting duties deemed non-supervisory by the Supreme Court in that case. Id.

Similarly, here, Rhymes's engineering duties are more analogous to the supervisory engineering duties performed by the employees in DNR/EPA than they are to the firefighting duties deemed non-supervisory in City of Freeport. Rhymes reviews his subordinates' work to effectuate the policies established by his employer and not simply to conform to industry norm and standards, as did the lieutenants in City of Freeport. One of the primary goals of the Department of Buildings is to ensure that it issues permits both quickly and accurately. To that end, Rhymes must make a nuanced assessment of permit applications presented to him by his subordinates when the question of compliance presents a "gray area." DNR/ EPA, 2012 IL App (4th) 110013 at ¶ 66 (finding the exercise of independent judgment in cases involving code ambiguities). He must balance the Employer's interests in issuing permits quickly against the competing interest to issue them accurately, and he must make an assessment of how much time he and his subordinates should devote to any given permitting conundrum in light of the countervailing need to issue the permits in a timely fashion. The direction Rhymes imparts to his subordinates concerning these more complex permitting issues therefore requires more than just ensuring that the permits comply with professional standards.

In light of this reasoning, we reject the Union's contention that we should view Rhymes's functions in isolation, without comparing them to the duties of other engineers whose supervisory status we have previously examined. It is the Board's practice and indeed the practice of law to compare and contrast cases. The Supreme Court's refusal to apply cases cited

by the employer in deciding Chief Judge of Circuit Court of Cook County reasonably stems from the fact that the employer sought to compare the duties of positions that bore no relation to each other: social workers and employees in the probation department to maintenance workers² and communication service workers.³ Cf. Chief Judge of Circuit Court of Cook County v. Am. Fed'n of State, County & Mun. Empl., Council 31, AFL-CIO, 153 Ill. 2d 508, 522 (1992). The comparison of engineers to engineers advanced by the Employer here is eminently reasonable, by contrast. In fact, the Court has affirmed Board decisions to exclude supervisors, even without express analysis of the City of Freeport decision when the Board favorably compared the work of the petitioned-for employees to work previously deemed by the Board to require independent, supervisory judgment. Service Employees International Union, Local 73 v. Ill. Labor Rel. Bd., 2013 Ill. App (1st) 120279 (court declined to distinguish City of Freeport where the Board and the Court previously determined that the case review at issue required independent judgment and was not simply an exercise of the purported supervisor's superior skill, experience and technical expertise). In sum, we reverse the ALJ's determination that Rhymes reviews his subordinates' work without exercising independent judgment.

However, we find that the ALJ's analysis is sound as it relates to other aspects of direction and the supervisory authority to reward; we therefore reject the Union's exceptions on these issues. First, we find that record contains sufficient support for the ALJ's conclusion that Rhymes directs with independent judgment when he approves or denies requests for vacation time off. The collective bargaining agreement that covers Rhymes's subordinates provides that requests for time off "will not be unreasonably denied." That broad standard of reasonableness necessitates Rhymes's exercise of independent judgment in deciding whether to approve or deny

² St. Clair Housing Authority, 5 PERI ¶ 2017 (IL SLRB ALJ 1989).

³ Ill. Dep't of Cent. Mgmt. Servs., 5 PERI ¶ 2012 (IL SLRB 1989).

vacation requests. State of Ill. Dep't of Cent. Mgmt. Servs., 12 PERI ¶ 2032 (IL SLRB 1996) (approval of time off in the absence of rules or regulations governing such approval requires the exercise of independent judgment). Furthermore, we construe Rahman's testimony concerning the effect of Rhymes's decisions on requests for time off as indicative of Rhymes's decision-making process, particularly in light of Rhymes's other duties. Rahman noted that "it affects efficiency when multiple people are off within the unit" and stated that Rhymes "manages that."⁴ We infer that Rhymes considers such efficiencies when he approves or denies vacation requests because he is also responsible for "allocat[ing] enough staffing levels so that there is not a backlog." Cnty. of Cook, 15 PERI ¶ 3022 (IL LLRB 1999)(consideration of operational need demonstrates exercise of independent judgment).

Second, we find that the ALJ correctly held that Rhymes directs with independent judgment when he completes performance evaluations for his subordinates and that he has authority to impact his subordinates' terms and conditions of employment through those evaluations. Rhymes exercises independent judgement because he assesses his subordinates on a number of qualitative factors including quality of work, dependability, and communication skills, provides written comments on their performance, and assigns a numerical grade to each evaluated category. Cnty. of Cook (Health and Hospital System), 32 PERI ¶ 55 (IL LRB-LP 2015)(evaluation of employees using subjective or qualitative measures indicated exercise of independent judgment).

Furthermore, evaluations have an impact on employees' receipt of merit raises and Rhymes's evaluations of his subordinates impact whether they receive those raises. We find little merit to the Union's claim that the record does not reflect the extent to which the

⁴ "It affects the customer, it affects efficiency when multiple people are off within the unit, and he manages that to make sure that people do take their time but not all at once." Tr. 78.

evaluations impact raises because the evaluations themselves state that “a final rating below 70 will result in the withholding of a merit pay increase.” Vill. of Plainfield, 29 PERI ¶ 123 (IL LRB-SP 2013)(evaluations that comprised 25% of a subordinates officer’s promotion score demonstrated that the superiors had supervisory authority to direct through their evaluations). Indeed, the Courts have held that the authority to evaluate is supervisory even when the evaluation has a less direct impact on employees’ terms and conditions of employment than Rhymes’s evaluations have in this case. See Serv. Employees Int’l Union, Local 73 v. Illinois Labor Relations Bd., 2013 IL App (1st) 120279, ¶ 22 (employees had supervisory authority to direct through their evaluations where the subordinates’ collective bargaining agreement required the evaluation to be considered when a subordinate applied for a promotion).

In addition, Rhymes’s ratings impact his subordinates’ receipt of raises because Rhymes’s superiors do not significantly change those ratings. The evaluations in the record admittedly appear to contain some modifications of Rhymes’s numerical grades, but the modifications are immaterial because they do not alter the evaluation’s impact on employees’ receipt of merit raises. None of the changes reduced Rhymes’ rating of his subordinates below the 70-point threshold or raised them above it. Notably, if there are cases in which Rhymes’s superiors changed his ratings in a manner that altered the ratings’ impact on employees’ raises and if a rating below 70 would not categorically result in denial of a merit raise, then the Union should have put such evidence into the record. However, the Union cannot claim the Employer has failed to meet its burden when the evaluations express a concrete relationship between the ratings and the raises, and show that Rhymes’s superiors have made no material changes to his ratings.

Third, we likewise find little merit to the Union's claim that the ALJ erred in finding that Rhymes has authority to effectively recommend the reward of his subordinates when he recommends that they receive merit increases. We find that Rhymes's recommendations are effective because Commissioner Davis "relies very heavily" on Rhymes's supporting evaluations in determining whether to grant his recommended merit increases. Furthermore, the number of unmodified merit-increase recommendations in the record warrants a finding that Davis accepts Rhymes's recommendations an overwhelming majority of the time. The Employer submitted eight recent recommendations, and the absence of modifications to six of them strongly suggests that those recommendations were accepted because the recommendations that were rejected contained changes. In turn, the acceptance rate of 75%, while not overwhelmingly high, justifies a finding that Rhymes's recommendations are effective. Ill. Dept. of Cent. Mgmt. Serv., 1 PERI ¶ 2014 (IL SLRB 1985)(employee's recommendations on hiring were effective and indicative of supervisory authority when they were accepted at least 75% of the time).⁵ If the Union wished to dispute the Employer's implicit claim that these recommendations constitute a representative sample, it could have done so at hearing.

In light of this documentary evidence, we reject the Union's claim that the Employer was required to put on testimony concerning the frequency with the Commissioner accepts Rhymes's recommendations on merit increases. We likewise find unpersuasive the Union's argument that the Employer failed to list the other factors on which Davis relies in deciding whether to grant merit increases. Indeed, the undisputed weight that Davis places on Rhymes's supporting

⁵ Cf. Am. Fed'n of State, County & Mun. Employees (AFSCME), Council 31 v. Illinois Labor Relations Bd., State Panel, 2014 IL App (1st) 123426, ¶ 45 (finding effective recommendation where ALJs' decisions were accepted by the Illinois Commerce Commission without modification 99% of the time). and State of Illinois, Department of Central Management Services (Property Tax Appeal Board), 30 PERI ¶ 127 (IL LRB-SP 2013) (effective recommendation found where they were accepted by superiors 95% of the time).

documentation in making merit increase decisions strongly weighs in favor of finding that she bases her decision in large part on Rhymes's recommendations.

In consideration of our reasoning, set forth above, we find there is merit to the Employer's assertion that Rhymes spends a preponderance of his work time engaged in supervisory functions and we therefore reverse the ALJ's conclusion to the contrary. First, under the quantitative test, Rhymes spends more time on supervisory functions than on any one non-supervisory function because he spends over 50% of his time performing supervisory work. There is no dispute as to the percentages of time that Rhymes allocates to each task because neither party excepted to the ALJ's findings of fact on these matters. The ALJ found that Rhymes spends 50% of his time reviewing his subordinates' work and 25% percent of his time making assignments, evaluating subordinates, rewarding them, and approving their time off. Thus, Rhymes spends over 50% of his time engaged in supervisory functions because his review of his subordinates' work, standing alone, accounts for 50% of his work time, and he spends additional time on supervisory functions when he evaluates his subordinates, approves their time off, and effectively recommends their reward.

Second, under the quantitative test, Rhymes spends a preponderance of his work time on supervisory functions because one of his most important job duties is supervisory in nature. Here, neither party excepted to the ALJ's conclusion that one of Rhymes's most important job duties is the review of his subordinates' work on permit applications. Thus, since Rhymes's review of his subordinates' work is supervisory, one of his most important job duties is supervisory and Rhymes thereby satisfies the preponderance requirement.

In sum, we find that Assistant Chief Engineer of Sewers Basil Rhymes is a supervisor within the meaning of Section 3(r) of the Act and therefore dismiss the Union's petition to represent him.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Robert M. Gierut
Robert M. Gierut, Chairman

/s/ Charles E. Anderson
Charles E. Anderson, Member

/s/ Richard A. Lewis
Richard A. Lewis, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois on February 9, 2016, written decision issued in Chicago, Illinois on March 10, 2016.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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City of Chicago,)	
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American Federation of State, County)	
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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On December 16, 2014, the American Federation of State, County and Municipal Employees, Council 31 (AFSCME or Union) filed a petition with the Local Panel of the Illinois Labor Relations Board (Board) seeking to include the title of Assistant Chief Engineer of Sewers employed in the City of Chicago Department of Buildings in the Unit #4 bargaining unit. The City of Chicago (City or Employer) opposed the petition, asserting that the employee sought to be represented is excluded from coverage of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended, pursuant to the exemption for supervisory employees.

A hearing on the matter was conducted on March 11, 2015, in Chicago, Illinois. Both parties elected to file post-hearing briefs.

I. Preliminary Findings

The parties stipulate and I find:

- 1) The Employer is a public employer within the meaning of Section 3(o) of the Act and subject to the jurisdiction of the Local Panel of the Board pursuant to Section 5(b) of the Act.
- 2) The Petitioner is a labor organization within the meaning of Section 3(i) of the Act.

- 3) The petitioned-for title, Assistant Chief Engineer of Sewers, is in the Employer's Department of Buildings.
- 4) The Petitioner represents employees in the title of Civil Engineer IV, Civil Engineer III, Engineering Technician III, Administrative Assistant III, Administrative Assistant II and Staff Assistant in the Department of Buildings.
- 5) These employees are currently included in Unit #4.
- 6) There exists a community of interest between the employee in the title of Assistant Chief Engineer of Sewers and the employees in Unit #4.

II. Issue and Contentions

At issue is whether the petitioned-for employee is a supervisor under Section 3(r) of the Act.

The Employer claims that Assistant Chief Engineer of Sewers Basil Rhymes' principal work is obviously and visibly different from his subordinate engineers and the administrative staff. The Employer alleges that the engineers' main work is to review permit applications and research to determine whether they comply with the Chicago Municipal Code (Code). Administrative staff performs clerical job functions. Rhymes is the only employee who attends preliminary meetings with contractors. The rest of Rhymes' time is spent reviewing his subordinates' work, managing the Sewer Permits Section's work load and managing the staff. The Employer claims that the essence and the nature of Rhymes' principal work is also different from that of his subordinates because he has the authority to assign them work, approve their requests for time off, recommend merit pay increases, issue discipline and respond to their grievances.

The Employer claims that the Assistant Chief Engineer of Sewers has the authority to perform or effectively recommend five statutory supervisory functions: direct, reward, discipline,

suspend and adjust grievances. The Employer alleges that Rhymes directs his subordinates' work by reviewing all permits to make sure they comply with the Code and, if necessary, advising engineers and customers how to alter a permit to comply with the Code. He also directs his subordinates by approving vacation time off requests and distributing the workload to ensure that permits issue quickly. The Employer claims that Rhymes rewards his subordinate employees by filling out performance evaluations that can effectively recommend a pay increase. The Employer asserts that Rhymes disciplines and suspends his subordinate employees by issuing oral reprimands, conducting pre-disciplinary hearings and effectively recommending more severe levels of discipline. Finally, the Employer alleges that Rhymes has the authority to adjust his subordinates' grievances at the first step.

The Petitioner claims that the Assistant Chief Engineer of Sewers does not exercise supervisory authority with independent judgment. The Petitioner alleges that Rhymes does not direct his subordinates' work because any authority he has is derived solely from his greater skill, experience and technical ability as an engineer. The Petitioner claims that Rhymes does not reward his subordinates because there is no evidence that his performance evaluations actually have an effect on terms and conditions of employment. The Petitioner asserts that Rhymes does not discipline and suspend his subordinates, because the Employer did not present evidence showing that Rhymes himself was able to issue anything more than an oral reprimand and there was no evidence oral reprimands have an effect on the employee's terms and conditions of employment. Finally, the Petitioner claims that Rhymes does not adjust grievances because designation as the responder to a grievance at the first step does not, by itself, constitute supervisory authority under the Act.

The Employer claims that, quantitatively, the petitioned-for employee spends a preponderance of his time exercising supervisory functions because he spends 75% of his time directing his subordinates' work, adjusting their grievances, issuing discipline in the form of oral reprimands and rewarding them by filling out performance evaluations. The Employer also contends that these supervisory duties are the most important job duties that the Assistant Chief Engineer of Sewers performs. The Petitioner claims that the petitioned-for employee does not spend a preponderance of his time exercising supervisory functions because his job duties are technical rather than supervisory.

III. Facts

The Department of Buildings is comprised of several divisions. The Permit Division includes the Easy Permit Process, Standard Plan Review and Developer Services subdivisions. The Easy Permit Process subdivision contains the Sewer Permits Section. As the Assistant Chief Engineer of Sewers, Basil Rhymes assigned to the Sewer Permits Section. This section also includes engineers and administrative staff. The primary function of the Sewer Permits Section is to issue sewer permits for the construction, repair, adjustment, rodding or cleaning of any subsurface structure designed to collect or transport storm or sanitary waste water. The section, overseen by Rhymes, seeks to issue permits that comply with the Chicago Municipal Code (Code) and to do so as quickly as possible. Usually, the section issues a permit on the same day as the application.

When a permit application is submitted, the administrative staff speaks to the contractor and accepts the application and an engineer reviews the permit to determine whether it complies with the Code. There is one engineer in the job title of Civil Engineer III, one employee in the job title of Civil Engineer IV and one engineer in the job title of Engineering Technician III. In some cases, an engineer may need to research sewer and pipe locations before making a

recommendation to Rhymes. If the engineer has a question about whether not the permit application complies with the Code, he or she brings it to the next highest engineer. For example, if the Civil Engineer III has a question, he or she asks the Civil Engineer IV. If the Civil Engineer IV has a question, he or she asks Rhymes. Ultimately, the engineer makes a recommendation to Rhymes who reviews the application himself and issues the permit if it complies with the Code. If the engineer is not sure that the permit application is in compliance with the Code, he or she brings it to Rhymes to decide. In this situation, Rhymes reviews the permit application himself and talks to the contractor to try to resolve any problems. After this review and consultation, Rhymes decides whether or not to issue the permit. Rhymes spends about 25% of his time reviewing his subordinate engineers' recommendations and resolving any disputes in order to issue permits that comply with the Code. Rhymes also spends about 25% of his time answering his subordinates' questions about whether a permit application complies with the Code for a total of 50% of his time devoted to these activities.

In the case of large or complex construction projects, Rhymes conducts preliminary meetings with designers, builders, architects, outside engineers and contractors to review their plans. In these meetings, Rhymes advises them on the best way to connect to the sewers and what the Code does and does not allow. The designers, builders, architects, outside engineers and contractors rely on Rhymes' information when finalizing their designs. In addition to these preliminary meetings, Rhymes also meets with consultants employed by the City regarding storm water issues. These consultants review plans, determine the amount of water retention needed for a project and give Rhymes the proper water flow rate for the project. Rhymes uses this information when advising the parties in preliminary meetings. Rhymes spends about 25% of his time in preliminary meetings with contractors and meetings with City consultants.

Rhymes is the primary employee in charge of managing the Sewer Permits Section and its work. He interacts with employees in other departments to ensure that his subordinate employees have sufficient office supplies. Rhymes also manages the schedule for the front desk to make sure that a member of the administrative staff is always at the desk to receive permit applications. When a permit application is received, Rhymes assigns it to a particular engineer. He makes this decision based on the engineer's skill and expertise and in order to balance workload between the engineers. Rhymes takes all of these things into consideration in order to ensure that the section issues permits quickly and in compliance with the Code. While Rhymes also must consider which employees are out of the office on paid time off, issuing permits quickly and accurately is Rhymes' primary consideration. Additionally, Rhymes approves vacation time off requests from his subordinates, but he does not approve sick time off requests.

The Employer and Petitioner are parties to a collective bargaining agreement (Agreement) that covers Rhymes' subordinate employees in the Sewer Permits Section. The Agreement is effective from July 1, 2012, to June 30, 2017. The Department of Buildings Commissioner is Felicia Davis and Assistant Commissioner Scott Loeff is responsible for day-to-day administration of the Agreement and handling grievances. Asif Rahman is the Deputy Commissioner for the Permit Division, and he reports to Managing Deputy Commissioner Marlene Hopkins.

The Agreement states that when a bargaining unit employee is due for a merit pay increase, Human Resources sends an evaluation form to that employee's immediate supervisor. In the Sewer Permits Section, this means that Rhymes fills out a performance evaluation for his subordinates and makes a recommendation to Rahman regarding a pay increase. Rahman either agrees or disagrees with Rhymes' recommendation and sends the recommendation up.

Ultimately, Commissioner Felicia Davis makes the final decision, relying heavily on Rhymes' recommendation and the information he provides as the immediate supervisor.

Assistant Commissioner Scott Loeff works with Rhymes when Rhymes handles discipline and grievances. The Agreement states that Rhymes has a role in responding to grievances at Step 1 as his subordinates' immediate supervisor. Rhymes can decide to deny the grievance and send it to the Step 2, deny the grievance and send it to a higher step or meet with the employee and resolve the grievance. In the case of a grievance filed on October 2, 2014, Rhymes denied the grievance at Step 1 and sent it up to Step 3 at the recommendation of Human Resources and Loeff. At the Step 1 space on the grievance, Rhymes wrote "HR indicated 'you can meet with the Union but indicated the decision was made above you.'" The union representative wrote on the grievance that the issue was not resolved and forwarded to the third step. The Employer did not present any other specific evidence of Rhymes acting to adjust a grievance in any way.

In the Sewer Permits Section, the disciplinary process is typically initiated by Hopkins or Loeff noticing an attendance problem with one of Rhymes' subordinates or a customer making a complaint about one of those employees. If the possible discipline is for an attendance problem, Loeff usually investigates the situation. If the possible discipline is for a behavioral problem, Loeff tends to do a shorter investigation and schedules a pre-disciplinary meeting. In cases where a customer raises a complaint about an employee, Loeff often asks Rhymes for more information about what happened. Section 20(b) of the Agreement states that Rhymes as the immediate supervisor informs his subordinates in the Sewer Permits Section when he or she receives an oral reprimand and also tells the employee the reasons for the reprimand. In the case of discipline other than oral reprimands, the Agreement states that Rhymes meets with the employee to notify him or her of the accusations and give the employee an opportunity to respond to the allegations.

The employee may have a union representative at this pre-disciplinary meeting. Loeff is usually also at the pre-disciplinary meeting and Rahman occasionally attends. After a pre-disciplinary meeting, Loeff asks for Rhymes' input regarding the appropriate level of discipline and Loeff makes a recommendation to Hopkins or Davis. Sometimes, Loeff and Rhymes both make a recommendation. If they agree, Loeff is the one who sends the recommendation to Hopkins. Rhymes spends 25% of his time on all of these tasks.

IV. Discussion and Analysis

The Employer argues that the Assistant Chief Engineer of Sewers is a supervisor within the meaning of Section 3(r) of the Act.¹ Under Section 3(r), employees are supervisors if they (1) perform principal work substantially different from that of their subordinates; (2) have the authority, in the interest of the employer, to perform any of the enumerated supervisory functions; (3) consistently use independent judgment in performing those functions; and (4) spend a preponderance of their time exercising that authority. Chief Judge of Circuit Court of Cook Cnty. v. Am. Fed'n of State, Cnty. and Mun. Emps., Council 31, AFL-CIO, 153 Ill. 2d 508, 515 (1992).

As the party asserting the statutory exclusion, the Employer has the burden to prove, by a preponderance of the evidence, that the Assistant Chief Engineer of Sewers is a supervisor. Cnty.

¹ Section 3(r) of the Act states:

“Supervisor” is an employee whose principal work is substantially different from that of his or her subordinates and who has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising that authority.

of Boone and Sheriff of Boone Cnty., 19 PERI ¶74 (IL LRB-SP 2003). The Employer “cannot satisfy its burden by relying on vague, generalized testimony.” State of Ill. Dep’t of Cent. Mgmt. Servs., 26 PERI ¶116 (IL LRB-SP 2010). Rather, it must “support its arguments with specific examples of the alleged supervisory, managerial, or confidential status.” Id.

1. Principal Work Requirement

If the work of the alleged supervisor and that of his or her subordinates is obviously and visibly different, the principal work requirement is satisfied. Vill. of Bolingbrook, 19 PERI ¶ 125 (IL LRB-SP 2003). If not, the Employer can satisfy this prong where it is determined that the “nature and essence” of the alleged supervisor’s principal work is substantially different than the “nature and essence” of his or her subordinates’ principal work. Id.

Here, Rhymes performs many job duties that his subordinates do not or do not have the authority to perform. Rhymes and his subordinate engineers all review permit applications to determine if they comply with the Code, but all of Rhymes’ other job duties are unique to him. He is the only employee who meets with contractors in preliminary meetings to discuss ways that large constructions projects can comply with the Code. Rhymes is the only one who assigns work, evaluates employees, issues oral reprimands, conducts pre-disciplinary meetings and has the authority to adjust grievances at the first step. Therefore, the principal work requirement is satisfied.

2. Supervisory Indicia and Independent Judgment

To fulfill the second and third prongs of the Act’s supervisory definition, the Employer must establish that the Assistant Chief Engineer of Sewers has the authority to perform or effectively recommend any of the 11 supervisory functions listed in the Act, and exercises independent judgment when doing so. Vill. of Bolingbrook, 19 PERI ¶ 125. In order to rise to the

level of supervisory authority, an alleged supervisor must exercise significant discretionary authority which affects the terms and conditions of his subordinates' employment. Vill. of Broadview v. Ill. Labor Relations Bd., 402 Ill. App. 3d 503, 510 (1st Dist. 2010) *citing* County of McHenry, 15 PERI ¶ 2014 (IL SLRB 1999) and Chief Judge of the Circuit Court of Cook County, 9 PERI ¶ 2033 (IL SLRB 1993).

A decision requires independent judgment when it involves a choice between two or more significant courses of action. Vill. of Bolingbrook, 19 PERI ¶ 125. Decisions that are “routine or clerical in nature or made on the basis of the alleged supervisor’s superior skill, experience, or knowledge” are not indicative of independent judgment. Id. City of Freeport v. Ill. State Labor Relations Bd., 135 Ill. 2d 499, 532 (1990) (employees’ decisions “derived from their superior skill, experience and technical expertise... [do] not require the use of independent judgment ‘in the interest of the employer’ as required by the statute.”).

An effective recommendation satisfying the Act’s supervisor requirements is one that is almost always adopted by the employee’s supervisor. Dep’t of Cent. Mgmt. Serv. v. Ill. Labor Relations Bd., State Panel, 2011 IL App (4th) 090966. The Appellate Court has explained that because all recommendations necessarily involve some sort of a review by superiors, a superior’s review “is not the litmus test for effective recommendation. Rather the litmus test is the influence of the recommendations, i.e., whether they almost always persuade the superiors.” State of Ill. Dep’t of Cent. Mgmt. Serv. (Ill. Commerce Comm’n) v. Ill. Labor Relations Bd., State Panel, 406 Ill. App. 3d 766, 777 (4th Dist (2010)).

a. Direct

“The term ‘direct’ encompasses a number of distinct, yet related, functions when reviewing and monitoring work activities, scheduling work hours, approving time off and

overtime, assigning duties, and formally evaluating employees' pay and employment status." Vill. of Plainfield, 29 PERI ¶ 123 (IL LRB-SP 2013) *citing* Ill. Dep't of Cent. Mgmt. Servs. v. Ill. Labor Relations Bd., 382 Ill. App. 3d 208, 224 (4th Dist. 2008). However, in order to qualify for "supervisory authority to direct" within the meaning of the Act, an alleged supervisor's responsibilities must involve significant discretionary authority to affect his or her subordinates' terms and conditions of employment." Id.

i. Review

A superior's oversight and review of a subordinate's work constitutes the statutory authority to direct if the superior is responsible for his or her subordinate's work. Cnty. of Lake and Sheriff of Lake Cnty., 16 PERI ¶ 2036 (IL LRB-SP 2000). That responsibility must involve more than merely observing and monitoring subordinates, or being responsible for the operation of a shift. Id. Rather, the supervisor is required to be actively involved in checking, correcting, and giving instructions to subordinates, without guidelines or review by others. City of Lincoln, 5 PERI ¶ 2041 (IL SLRB 1988); State of Ill. Dep't of Cent. Mgmt. Servs., 4 PERI ¶ 2013 (IL SLRB 1988); City of Chicago, 10 PERI ¶ 3017 (IL LLRB 1994). However, an employee relying on his or her skills as an engineer and knowledge of federal standards, rather than implementing employer policies, when reviewing subordinates' work is not using supervisory authority. State of Ill. Dep't. of Cent. Mgmt. Servs., 26 PERI ¶ 131 (IL LRB-SP 2010).

Here, Rhymes reviews his subordinate engineers' recommendations to issue permits and instructs the engineers and contractors on how to alter a permit to comply with the Code. Nobody other than Rhymes reviews permit applications or alters them before they are issued. His decisions do not need to be approved by anybody else. These job duties all fall squarely within the meaning of "review" as defined by the Act.

However, Rhymes' authority to review his subordinates' work appears to come primarily from his greater experience and technical expertise as an engineer. Rhymes and the three engineers in the Sewer Permits Section follow a chain of authority based primarily on experience and expertise. For example, the Civil Engineer III and Civil Engineer IV have the same job description and perform the same functions. The only distinction between the two is that if the Civil Engineer III has a question, he or she brings it to the Civil Engineer IV because the latter has greater experience and technical expertise. This chain continues up to Rhymes with the Civil Engineer IV bringing a question to Rhymes because of his greater experience and technical expertise. State of Ill. Dep't. of Cent. Mgmt. Servs., 26 PERI ¶ 131; Vill. of Bolingbrook, 19 PERI ¶ 125. Therefore, Rhymes does not possess authority to direct his subordinate employees with independent judgment when he reviews their work, because he possesses this authority due to his superior skill, experience and knowledge as an engineer.

ii. Assign work

Where an alleged supervisor considers "the knowledge of the individuals involved, the nature of the task to be performed, the employees' relative levels of experience and skill, and the employer's operational need," he or she exercises independent judgment in assigning work." Vill. of Campton Hills, 31 PERI ¶ 132 (IL LRB-SP 2015) *citing* County of Cook, 15 PERI ¶ 3022 (IL LLRB 1999).

Rhymes distributes work amongst his subordinate engineers but he does not assign work to the administrative staff. He distributes work in order to balance the workload so that the Section quickly issues permits that comply with the Code. When Rhymes assigns permit applications to certain engineers, he considers the engineer's own skill, experience and knowledge. Rhymes makes these decisions in the interest of the Employer and to fulfill the

operational goal of quickly issuing permits that comply with the Code. Therefore, I find that Rhymes assigns work to his subordinate engineers with independent judgment as required by the Act.

iii. Approve time off

The ability to approve requests for time off or to otherwise create schedules can constitute supervisory authority so long as the exercise of this authority involves the consistent use of independent judgement and is not of a mere routine or clerical nature. *See Vill. of Morton Grove*, 23 PERI ¶ 72 (IL LRB-SP 2010) *citing City of Carbondale*, 3 PERI ¶ 2044 (IL SLRB 1987).

Rhymes approves his subordinates' vacation requests but he does not review or approve time off requests for any other reason. He approves vacation requests in order to ensure there are enough engineers and administrative employees working so that the Section can quickly issues permits that comply with the Code. Rhymes makes these decisions in the interest of the Employer in order to fulfill this operational goal. While Rhymes makes many decisions based on his skill, experience and knowledge and expertise as an engineer, there is no evidence to suggest that he approves or denies vacation time off requests for these reasons. Rather, Rhymes' choices to approve or deny a subordinate's vacation time off request are based solely on the Employer's operational goal of issuing permits. Additionally, these choices are not merely routine in nature because Rhymes must take into account how a vacation time off request will impact the Section's ability to issue permits quickly. Therefore, Rhymes approves his subordinates' vacation requests with independent judgment, as required by the Act.

iv. Evaluate performance

Evaluating a subordinate's work performance is evidence of supervisory authority to direct if the evaluation is used to affect an employee's pay or employment status. Vill. of Plainfield, 29 PERI ¶ 123 (IL LRB-SP 2013). Rhymes evaluates his subordinates' job performance when he fills out their performance evaluations. These evaluations go into the employees' personnel files unaltered. The performance evaluations themselves are purely a product of Rhymes' own choices. Therefore, if the performance evaluations can affect terms and conditions of employment, then Rhymes satisfies the supervisory function of evaluating.

Here, the performance evaluations are accompanied by a recommendation for merit pay increases. The record reveals that they are considered together, and that the Department Commissioner Felicia Davis bases her decision on whether to grant merit pay increases, at least in part, on Rhymes' evaluation of his subordinates. Although Rhymes himself does not make the ultimate decision whether one of his subordinates receive a merit pay increase or not, Davis does not have any input in his performance evaluations and she does not change them. Accordingly, I find that Rhymes evaluates his subordinates with independent judgment as required by the Act.

b. Discipline

The supervisory authority to discipline employees can be established by the authority to give oral reprimands and does not require the authority to impose more severe discipline. State of Illinois (CMS) and Illinois Federation of Public School Employees, Local 4408, 12 PERI ¶ 2032 (IL SLRB 1996). In City of Freeport, the Illinois Supreme Court regarded oral warnings and written reprimands as discipline. City of Freeport, 135 Ill. 2d 499. Reprimands constitute supervisory authority to discipline if: (1) the individual has the discretion or judgment to decide

whether to issue such a reprimand; (2) the reprimand is documented; and (3) the reprimand can serve as the basis for future disciplinary action, that is, it functions as part of a progressive disciplinary system. Metro Alliance of Police v. Ill. Labor Relations Bd., 362 Ill. App. 3d 469, 478-9 (2nd Dist. 2005), *see also* Northern Ill. Univ. (Dep't of Safety), 17 PERI ¶ 2005 (IL LRB-SP 2000) (verbal reprimands that are not recorded are not discipline within the meaning of the Act.)

Here, the record shows that Rhymes has the authority to issue oral reprimands, and he has done so. These oral reprimands are given to his subordinate employees in writing and become part of that employee's personnel file. In cases of future discipline, these reprimands are included with all other past discipline and considered by the person determining the severity of any future discipline. For example, Rhymes issued an oral reprimand for tardiness to an Administrative Assistant II in May 2007 and the form noted that employee had received a prior oral reprimand on May 19, 2006. When Rhymes and Loeff discussed the severity of discipline for one of Rhymes' subordinates, Loeff noted that employee was disciplined on two previous occasions.

Rhymes is also involved in disciplining and suspending subordinates when he conducts pre-disciplinary hearings and makes recommendations for discipline more severe than an oral reprimand. Rhymes is usually accompanied by Loeff for the pre-disciplinary meeting and is occasionally accompanied by Rahman. However, the record reveals that Rhymes' recommendations are not effective. First, in many instances, Loeff is the one who makes the recommendation for consideration by superiors. The Employer presented evidence of one situation when Rhymes and Loeff disagreed on the severity of discipline. In this case, Loeff sent both of their recommendations to Hopkins, and she disciplined the employee according to Loeff's recommendation. Therefore, the Employer has not shown that Rhymes'

recommendations for discipline more severe than an oral reprimand are “almost always followed.” City of Peru v. Ill. Labor Rel. Bd., State Panel, 167 Ill. App. 3d 284, 290, 521 N.E.2d 108, 113 (3rd Dist. 1988). Accordingly, I find that Rhymes only exercises supervisory authority with independent judgment when he gives oral reprimands.

c. Reward

Rhymes has the authority to reward employees in that his recommendations for merit increases, supported by his evaluation of his subordinates’ performance, are effective. Rhymes submits his performance evaluations and accompanying recommendations for merit increases to Rahman who agrees or disagrees and forwards them to Department Commissioner Felicia Davis. Davis ultimately makes the decision whether or not to grant a merit pay increase, but she relies heavily on the information and recommendation Rhymes provides her. In this situation, it is Rhymes who gathers information, in his capacity as the immediate supervisor, to present to the decision maker. Although Davis does not accept the recommendation that Rhymes presents in his evaluation without review, she does rely heavily on the information he provides her. I find that in this situation, Rhymes’ recommendations almost always persuade Davis; therefore, he effectively recommends merit pay increases. State of Ill. Dep’t of Cent. Mgmt. Serv. (Ill. Commerce Comm’n) v. Ill. Labor Relations Bd., State Panel, 406 Ill. App. 3d at 777. Moreover, in using his discretion to recommend merit increases, Rhymes affects his subordinates’ employment in areas likely to fall within the scope of union representation. County of Lake, 16 PERI ¶ 2036 (IL SLRB 2000). Therefore, I find that Rhymes rewards his subordinate employees as that term is used in the Act.

d. Adjust grievances

Rhymes is designated as the employee who responds to grievances at the first step. However, designation as the first step in a grievance procedure, without more, does not constitute supervisory authority under the Act. State of Ill. Dep't of Cent. Mgmt. Servs., 5 PERI ¶ 2012 (IL SLRB 1989). Here, the Employer presented evidence of one situation where Loeff instructed Rhymes to deny a grievance and send it to step 3 instead of step 2; Rhymes followed Loeff's instructions. The Employer did not present any evidence of a situation where Rhymes made a decision himself to adjust a grievance at the first step. While the Agreement states that Rhymes possesses the authority to adjust grievances at the first step, the evidence presented shows that Rhymes does not, in practice, adjust grievances himself. The record is insufficient to find that Rhymes uses independent judgment in adjusting grievances as the only example in the record reveals that he was directed how to proceed. Therefore, despite the parties' Agreement, I find that the Employer has failed to show that Rhymes possesses the authority to adjust a grievance with independent judgment under the Act.

3. Preponderance Requirement

The fourth prong of the Act's definition of a supervisor requires that the alleged supervisor spend more time on supervisory functions than any one non-supervisory function. City of Freeport, 135 Ill. 2d at 533. Following City of Freeport, the Fourth District of the Illinois Appellate Court created two different tests for determining whether the preponderance standard has been met. The first test looks at a quantitative measure; it requires the alleged supervisor to spend more than 50% of his or her time engaged in supervisory duties. Dep't of Cent. Mgmt. Servs. v. Illinois State Labor Relations Bd., 249 Ill. App. 3d 740, 746-7 (4th Dist. 1993). The second test is a qualitative test, focusing on the significance of the supervisory duties rather than

on the time spent performing specific functions. Dep't of Cent. Mgmt. Servs. v. Illinois State Labor Relations Bd., 278 Ill. App. 3d 79, 85-87 (4th Dist. 1996). Regardless of the test used, the Employer must support its argument with specific examples and conclusory testimony is insufficient. State of Ill., Dep't of Cent. Mgmt. Servs., 26 PERI ¶ 116; See also State of Ill., Dep't of Cent. Mgmt. Servs., (EPA, DPH, DHS, DCEA), 26 PERI ¶ 155 (IL LRB-SP 2011).

Here, as discussed above, I find that the Assistant Chief Engineer of Sewers engages in the supervisory function of disciplining his subordinate engineers and administrative staff in the Sewer Permits Section with independent judgment when he issues oral reprimands. Rhymes directs his subordinate engineers with independent judgment when he assigns them work. Finally, Rhymes directs all of his subordinates when he approves time off, evaluates and rewards. The record reveals that Rhymes spends 50% of his time reviewing his subordinates' work and the remaining 25% in preliminary meetings with contractors and City consultants. This means that, at most, Rhymes spends 25% of his time engaging in supervisory functions and the other 75% of his time on non-supervisory job duties. Therefore, quantitatively, Rhymes does not spend a preponderance of his time engaging in supervisory functions.

Qualitatively, I find that Rhymes' most important job duties are conducting preliminary meetings with contractors and consultants and reviewing his subordinates' work. His job duties related to discipline, grievances and performance evaluations are all reviewed by one or more other employees and, more often than not, someone other than Rhymes makes the decision. If Rhymes was removed from these job duties, these other employees would likely still be able to make their decisions. In contrast, Rhymes is essential to the job functions of conducting preliminary meetings and directing work in the Sewer Permits Section. He is the only employee who attends the preliminary meetings. Also, while the Sewer Permits Section functions to review

permit applications by passing any questions for review up a chain of command to the next most experienced employee, Rhymes is ultimately the one who resolves any problems with a permit and decides if a permit will issue. As such, this is also qualitatively one of his most important functions. The Employer itself argues that these are Rhymes' most important functions and the facts show that to be the case. However, because these two functions are not supervisory functions under the Act, they do not support the Employer's contention that Rhymes' most significant duties are supervisory functions. Therefore, the Employer has failed to prove that Rhymes meets the qualitative preponderance test. Because the Employer has failed to prove that Rhymes' supervisory functions are quantitatively or qualitatively preponderant, it has failed to prove that Rhymes should be excluded from the Act's coverage as a supervisor.

V. CONCLUSIONS OF LAW

The Assistant Chief Engineer of Sewers is not a supervisor within the meaning of Section 3(r) of the Act.

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the position of Assistant Chief Engineer of Sewers in the Department of Buildings shall be included in Unit #4 currently represented by the American Federation of State, County and Municipal Employees, Council 31.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 14 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may

include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with Kathryn Nelson, General Counsel of the Illinois Labor Relations Board, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois, this 21st day of October, 2015.

**STATE OF ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

A handwritten signature in cursive script that reads "Thomas Allen". The signature is written in black ink and is positioned above a solid horizontal line.

**Thomas Allen
Administrative Law Judge**