

INCOMPLETE DOCUMENT SUMMARY

WERC records show that the document described below was issued by the tribunal noted on the date noted regarding the WERC case noted. The information contained in WERC records regarding the ruling issued is noted below:

<u>TRIBUNAL:</u>	Rock County Circuit Court Judge Arthur L. Luebke
<u>DATE ISSUED:</u>	7/6/64
<u>WERC CASE INVOLVED:</u>	Rock County Mental and County Home Case 2 No. 9330 MP-7 Decision No. 6655
<u>OUTCOME:</u>	Upheld Board Order of March 9, 1964 in full
<u>PDF FILE NAME:</u>	6655C1.PDF

STATE OF WISCONSIN : : CIRCUIT COURT : : ROCK COUNTY

ROCK COUNTY MENTAL AND COUNTY HOME,

Petitioner,

WISCONSIN EMPLOYMENT RELATIONS BOARD,

Respondent.

MEMORANDUM DECISION
Case No. 9970

Hearing to review an order of the Wisconsin Employment Relations Board finding that the Rock County Mental and County Home had engaged in unfair labor practices, heard at the Court House in the City of Janesville.

PRESENT AND PRESIDING: Hon. Arthur L. Luebke
Circuit Judge

APPEARANCES: Mr. Samuel Loiszo, Assistant District Attorney for Rock County, on behalf of the Petitioner;

Mr. George Thompson, Attorney General by Miss Beatrice Lampert, Ass't Att'y General, on behalf of the Respondent.

BY THE COURT:

On March 9, 1964, the Wisconsin Employment Relations Board ruled in substance that the Rock County Mental and County Home had unlawfully discharged an employee, one Gerald Johnson, because of his participation in certain labor union activities, and had further by its acts unlawfully interfered with, restrained and coerced its employees in the exercise of certain rights guaranteed by Wisconsin law with respect to membership in a labor union. The Wisconsin Employment Relations Board thereupon ordered the Rock County Mental and County Home to cease and desist from such practices and to take certain specific affirmative action to

correct the situation, providing, among other things, for the reinstatement of said Gerald Johnson to his former job and reimbursement for any net loss of earnings. See Amalgamated Meat Cutters and Butcher Workmen of North America, Local Union No. 444, AFL-CIO, Complainant, vs Rock County Mental and County Home, Respondent, Case II, No. 9330 MP-7, Decision No. 6655.

The Rock County Mental and County Home has now petitioned this court to review such order. The Wisconsin Employment Relations Board in turn has cross-petitioned for enforcement of the challenged order.

Section 111.07 (7), Wis. Stats., expressly provides that the Board's findings are conclusive, if supported by the evidence. This court is therefore limited in its review to an examination of the record to determine (1) whether or not the disputed findings of fact are supported by credible and competent evidence; and, if so, (2) whether the facts found support the conclusions of the Board; and, (3) whether the Board acted within its jurisdiction in making its final order of disposition. United Shoe Workers v. Wisconsin L. R. Board, 227 Wis. 569 (1938).

In any event, this court is not permitted in its review of the record to substitute its wisdom for that of the Board. Nor is the wisdom of the legislature in enacting such legislation properly the concern of this court in determining whether the Board functioned within its jurisdiction. If the evidence is contradictory, the credibility of the various witnesses is for the Board to determine. Similarly, inferences that may be drawn from established facts in the record which reasonably support them are properly within the discretion of the Board. Hence the resulting findings of the Board cannot be disturbed by a reviewing court unless such findings are unsupported by substantial evidence in the light of the entire record submitted.

Section 111.70 (3) (a) 2, Wis. Stats., prohibits an employer such as the Home from:

"Encouraging or discouraging membership in any labor organization, employe agency, committee, association or representation plan by discrimination in regard to hiring, tenure or other terms or conditions of employment."

In event of such a violation, Section 111.07 (4), Wis. Stats., authorizes the Board to

"....require the person complained of to cease and desist from the unfair labor practices found to have been committed and require him to take such affirmative action, including reinstatement of employes with or without pay, as the board may deem proper..."

It is the conclusion of this court, after review of the entire record, that the findings of the Board are sufficiently supported by competent evidence which it must be presumed the Board found to be credible.

For instance, from the competent evidence submitted, the Board was entitled to believe that Gerald Johnson had been employed for two years without any warning that termination of his job was under consideration; that although the Home based its discharge of Johnson on the ground that continuance of the job was economically unsound, Johnson had previously received two increases in salary, and budget provisions for his job had already been made for the balance of the year; that the increase in the Home's facilities to provide for 150 additional patients, which was one of the considerations in hiring Johnson, was still in process but had not been accomplished at the time of his discharge; that the action to terminate Johnson's employment was taken almost immediately after the superintendent received notice by letter from the business representative of the union that it desired to enter into negotiations for wages, hours and conditions of employment in behalf of Johnson; that Johnson was immediately thereafter advised by the