

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE BOARD OF SCHOOL DIRECTORS

Decision No. 8974-C

District Council 48, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission on August 17, 1977 requesting that the Commission clarify a certified collective bargaining unit consisting of clerical and technical employees in the employ of the Milwaukee Board of School Directors; and Milwaukee Teachers Education Association having been permitted to intervene on the basis that it presently represents the employees covered in the petition; and hearing having been held in the matter on February 8, February 9 and March 3, 1978, before Ellen J. Henningsen, Examiner, and further hearing having been scheduled; and prior to the conduct of further hearing the Petitioner, having on March 10, 1978, requested that it be permitted to withdraw its petition without prejudice; and the Intervenor, having opposed Petitioner's request and the Municipal Employer having raised no objection to Petitioner's request; and the Commission having considered the matter and being satisfied that the petition should be dismissed with prejudice as noted below;

NOW, THEREFORE, it is

**ORDERED**

That the petition for unit clarification filed in the above-entitled matter be, and the same hereby is, dismissed with prejudice to the refiling of a petition on the same disputed positions for one year from the date of this order.

Given under our hands and seal at the  
City of Madison, Wisconsin this 13th  
day of November, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Herman Torosian, Commissioner

Marshall L. Gratz  
Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

The petition for unit clarification was filed on August 17, 1977. Petitioner requests that the Teacher Aides employed by Milwaukee Board of School Directors who perform office clerical work be removed from the bargaining unit represented by the Intervenor, Milwaukee Teachers Education Association, and that they be placed in the clerical bargaining unit represented by Petitioner. After three days of hearing but prior to completing the hearing, Petitioner requested permission on March 10, 1978 to withdraw the petition without prejudice. The Municipal Employer does not oppose Petitioner's request while the Intervenor takes the position that the petition should either be dismissed with prejudice or decided on the merits.

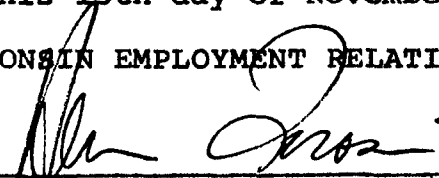
On March 27, 1978 the Examiner wrote Petitioner's attorney and explained that "...the Commission intends to dismiss the petition with prejudice to the refiling of a petition on the same disputed positions for one year from the date of any dismissal order. Please advise whether you wish to withdraw the petition under these conditions." Although receipt of the letter was acknowledged, no response was received. 1/ On October 18, 1978 the Examiner wrote Petitioner's attorney that "[u]nless I receive from you a written request to proceed with the hearing in this matter on or before Friday, October 27, 1978, the Commission will dismiss the petition." On October 30, 1978 the Commission received a letter from Petitioner requesting that the petition be withdrawn and that refiling not be barred for one year.

In light of the fact that three days of hearing have already been held in this matter, the Commission concludes that it is appropriate that the petition be dismissed with prejudice to the refiling of a petition on the same disputed positions for one year from the date of this order.

Dated at Madison, Wisconsin this 13th day of November, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Commissioner

  
Marshall L. Gratz, Commissioner

---

1/ It should be noted that the Petitioner's staff member who represented the clerical unit was hospitalized in April and died in May 1978.