

settlement; and prior to any further action on said request said Elmbrook Education Association having, on July 18, 1969, filed a complaint with the Commission alleging that said Municipal Employer had committed certain prohibited practices within the meaning of Section 111.70, Wisconsin Statutes, by interfering with, intimidating and coercing its members and all teachers employed by said Municipal Employer in the exercise of the rights guaranteed by Section 111.70, Wisconsin Statutes; and on July 23, 1969, the Commission having issued an order appointing Robert B. Moberly, a member of its staff, as Examiner to conduct hearing on said complaint and to make and issue findings of fact, conclusions of law and order therein; and said Examiner having, on July 28, 1969, set hearing on the complaint for Tuesday, August 19, 1969, at Milwaukee, Wisconsin; and on July 30, 1969, counsel for the Elmbrook Education Association having filed a motion requesting the Commission to consolidate the prohibited practice case with the fact finding petition heretofore filed by it; and the Commission having considered said motion and being fully advised in the premises, and being satisfied that said two proceedings are incompatible and, therefore, should not be consolidated;

NOW, THEREFORE, it is

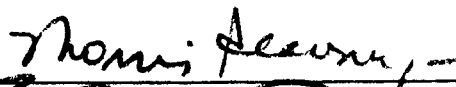
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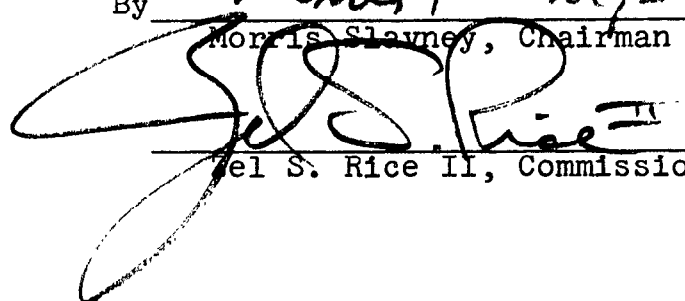
That the motion of Elmbrook Education Association to consolidate the fact finding proceeding and the prohibited practice proceeding, both involving the Elmbrook Education Association and Elmbrook Schools Joint Common School District #21, be, and the same hereby is, denied.

Given under our hands and seal at the
City of Madison, Wisconsin, this 31st
day of July, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slayney, Chairman


Mel S. Rice II, Commissioner

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

ELMBROOK EDUCATION ASSOCIATION

To Initiate Fact Finding Between said
Petitioner and

ELMBROOK BOARD OF SCHOOL DIRECTORS

Case III
No. 12763 FF-229
Decision No. 9170

ELMBROOK EDUCATION ASSOCIATION,

Complainant,

vs.

ELMBROOK SCHOOLS JOINT COMMON SCHOOL
DISTRICT #21, a Wisconsin Municipal
Corporation, and ELMBROOK BOARD OF
SCHOOL DIRECTORS,

Respondents.

Case IV
No. 13036 MP-65
Decision No. 9163-A

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO CONSOLIDATE

After the Elmbrook Education Association, hereinafter referred to as the Association, filed a petition for fact finding wherein it alleged that it and the Elmbrook Schools Joint Common School District #21, hereinafter referred to as the School District, were deadlocked after a reasonable period of negotiations and that it had refused to meet and negotiate at reasonable times in a bona fide effort to arrive at a settlement, a staff member of the Commission conducted an informal investigation of the matter, and as a result the parties had reached an agreement with respect to their deadlock, but the allegation contending that the School District had not bargained in good faith remained. Thereafter the Association filed a complaint of prohibited practices wherein it alleged that the School District had committed certain acts of unlawful interference in its conduct with certain of its individual teachers. The Examiner designated by the Commission set hearing on the complaint. The Association now files a motion requesting the Commission to consolidate the hearing in the fact finding petition relating to the allegation that the School District had failed and refused to meet and

negotiate at reasonable times in a bona fide effort to arrive at a settlement and the hearing on the complaint filed by it. We have refused to consolidate the proceedings on the basis that they are incompatible with each other. If, after hearing the allegation in the fact finding petition, the Commission found that the School District failed to bargain in good faith, it would appoint a fact finder to make recommendations with regard thereto. If, after hearing the complaint matter, the Examiner found that the School District had committed prohibited practices, he would issue an order remedying same, such order being subject to review by the Commission and the courts. Furthermore, refusal to bargain in good faith in municipal employment does not constitute a prohibited practice.^{1/}

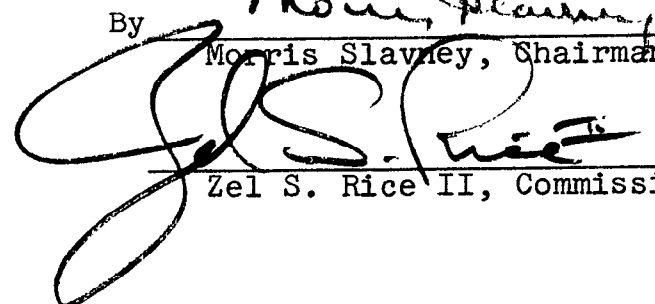
If the basis of the fact finding petition is the conduct which is alleged in the complaint as constituting unlawful interference, restraint and coercion, then those matters should be litigated in the complaint case rather than in the fact finding hearing.

Dated at Madison, Wisconsin, this 31st day of July, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

1/ Madison School Board, 373 (2d) 483, 12/67