STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

UPHOLSTEPERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO, Complainant, vs. ALGOMA FOOD INDUSTRIES, INC., Respondent.	Case II No. 14536 Ce-1348 Decision No. 10253-A

Appearances:
Mr. Fred Wagner, Business Agent, appearing on behalf of the Complainant.
Mr. John L. Beehner, Division Manager and Mr. Clemons J. Traut, Plant Manager, appearing on behalf of the Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission in the above entitled matter, and the Commission having appointed George R. Fleischli, a member of the Commission's staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5) of the Wisconsin Employment Peace Act; and hearing on said complaint having been held at Algoma, Wisconsin, on May 7, 1971, before the Examiner; and the Examiner having considered the evidence and arguments and being fully advised in the premises makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That Upholsterers' International Union of North America, AFL-CIO, hereinafter referred to as the Complainant, is a labor organization having its principal office at 25 North Fourth Street, Philadelphia, Pennsylvania and that Local 314, Upholsterers' International Union of North America, AFL-CIO, hereinafter referred to as Local 314, is an agent of the Complainant having its principal office at 95 Steele Street, Algoma, Wisconsin.

2. That Algoma Wood Industries, Inc., hereinafter referred to as the Respondent, is a corporation having its principal place of business at Algoma, Wisconsin.

3. That at all times material herein the Complainant and Respondent have been parties to a collective bargaining agreement which contains among its provisions, the following material herein:

"ARTICLE 8. UNION SHOP COMMITTEE

. . .

(d) The EMPLOYER agrees to pay authorized UNION members employed by the EMPLOYER for any reasonable loss of time incurred in settling grievances or conferring with the EMPLOYER, or his representatives, and such time shall be considered as

time worked for the purpose of computing overtime pay. However, scheduled weekly meetings between Plant Management and the Union Shop Committee for the discussion of grieved issues shall be limited to one (1) hour during paid working hours. Meetings may continue past this period, but the time expended will not be considered as time worked."

. . .

"ARTICLE 11. PREVAILING CONDITIONS

All conditions of employment which have heretofore been more favorable than specified in this Agreement shall remain in full force and effect. No member of the UNION shall suffer a reduction of wages on account of the minimum rates of wages specified in this Agreement, and no employees will be hired at less than the prevailing scale established in any department or job operation."

. . .

"ARTICLE 19. VACANCIES, BIDDING, AND TRANSFERS

(a) A job vacancy shall be considered a temporary vacancy, if it is to be vacant for a period of less than thirty (30) days. A job vacancy shall be considered a permanent vacancy if it is to be vacant for, or is not permanently filled, for a period of thirty (30) days or more.

(b) Temporary vacancies are to be filled by transfer. The employees to be transferred to be selected by the EMPLOYER. An employee transferred to the convenience of the EMPLOYER shall receive his regular rate of pay or the rate of the job to which he is transferred, whichever is higher.

(c) Permanent vacancies shall be filled by first posting such vacancies on the bulletin board for five work days. Any employee who has completed his probationary period, may bid on the job by applying his name for the posting. The job shall be awarded to the most senior bidder, with reasonable qualifications. The successful bidder on such posted job vacancy shall be given a ten (10) scheduled working day trial period and shall be paid the top base rate of the job or his piece work earnings, whichever is higher. Only one (1) bid each six (6) months may be made by an employee, except by mutual agreement. If the vacancy is not filled by posting, then the most senior employee on lay off shall be recalled. In the event no employee is on lay off, the EMPLOYER may hire a new employee to fill the vacancy."

. . .

"ARTICLE 22. GRIEVANCE & ARBITRATION PROCEDURE, NO STRIKE, NO LOCK-OUT

(a) For the purpose of this Agreement, a grievance is any difference between the parties as to the proper interpretation or application of the terms of this Agreement, any dispute or difference of any kind between the parties concerning the terms and conditions of employment, or any questions of a difference between the parties. All grievances shall be settled and determined exclusively by the procedure provided in this paragraph. Any party or employee covered by this Agreement may present a grievance for adjustment under this paragraph. In the case of

a grievance brought by an employee, however, the UNION shall have the exclusive authority to determine if the grievance is to be submitted to arbitration.

1. All grievances shall first be taken up with the foreman by the employee, or by his steward, or by both. Failing to resolve the issue at this conference, the steward shall reduce the grievance in writing.

2. All grievances which have been reduced to writing must be in triplicate, signed by the aggrieved employee and department steward. The company shall give a written answer to the written grievance within five (5) working days. Written grievances shall, if not settled within thirty (30) days, be submitted to arbitration; however, the parties may extend such time limits by express mutual agreement.

3. The grievance shall be taken up for adjustment by and between the UNION representative and the EMPLOYER representative. In the event that said parties cannot adjust the matter within five (5) work days, then:

4. Either party may submit the grievance to arbitration.

5. The Arbitrator shall be selected and the arbitration conducted in accordance with the (sic) obtaining of the Federal Mediation and Conciliation Service. The Arbitrator shall conduct a hearing and render his decision and award as expeditiously as possible. The decision and award of the Arbitrator shall be final and binding on all parties. In rendering his decision and award, the Arbitrator shall have full discretion to fashion remedies to remedy any improper conduct that has been the subject of the grievance.

6. Disputes involving charges of unjust discipline or unauthorized work stoppage or unauthorized lockout shall be given precedence in this grievance and arbitration procedure.

7. The expense for the Arbitrator shall be borne equally by both parties.

8. Failure to comply immediately and fully with the decision and the award of the Arbitrator shall be deemed a violation of this Agreement and shall suspend the operation of the no strike-no lockout provision of this Agreement until the violation is fully remedied by the party committing same."

. . .

"ARTICLE 33. WAGES, PIECE WORK, BONUSES AND INCENTIVE PROCEDURES

The following base rates, PWS rates, piece work rates, production bonus and incentive procedure shall be applied:

1. BASE RATES: Base rate shall be paid to all employees who are on piece work operations according to the following schedule:

Effective Date	Newly Hired	After 90 Days	After 180 Days
2/1/70	1.70	1.75	1.80
2/1/71	1.75	1.80	1.85
2/1/72	1.85	1.90	1.95

2. PWS RATES: (a) All piece work employees shall be paid a PWS rate based at eighty-five (85) percent of the employees average calendar quarterly earnings, provided that calculation is not less than the following schedule:

Position	Rates/Effective Dates 2/1/70	2/1/71	2/1/72
All Factory Personnel	1.95	2.00	2.10
Except Hand Bucket Sanders	2.00	2.05	2.15
Except Sprayers & Dipper	2.05	2.10	2.20

(b) Non-piece work employees shall be paid a PWS rate according to the following schedule after meeting the "Elapsed Time Requirement":

Position	Rates/Effective Dates 2/1/70	2/1/71	2/1/72
Material Handlers	2.37	2.42	2.52
Set Up Men	2.47	2.52	2.62
Maintenance Men	2.68	2.73	2.83
Inspectors	2.10	2.15	2.25
Repair Inspectors	2.15	2.20	2.30

3. ELAPSED TIME REQUIREMENTS:

(1) Newly hired Material Handlers, Set Up Men, Inspectors, and Repair Inspectors shall be paid a minimum of $1.75 per hour for the first thirty (30) calendar days of employment, and then an additional ten (10) cents per hour each sixty (60) days thereafter up to the maximum rate set forth.

(2) Newly hired Maintenance Men shall be paid a minimum of $2.30 per hour for the first sixty (60) calendar days and then an additional ten (10) cents per hour each sixty (60) days thereafter up to the maximum rate set forth.

4. APPLICATION OF THE P.W.S. RATES: The PWS rates in all categories shall apply to all employees who have completed their probationary period of employment prior to the effective date of this contract.

Newly hired employes shall be paid a minimum of $1.70 per hour.

5. PIECE WORK EARNING OPPORTUNITY: Piece work employees performing at a normal incentive pace under normal incentive conditions shall be able to earn a minimum of $2.25 per hour. An operator working at an increased effort, above normal incentive pace shall obtain a like increase in earnings.

All piece work standards will be set, by stop watch time studies, which money value of .0405¢ per minute, shall include a standard minimum allowance of 15% personal and fatigue, and an incentive allowance of 25%, representing the base rate of $1.70.

To convert this time rate to money per 1000 pieces the engineers will use a money value of .0405¢ per minute x 1000 to arrive at the rate per 1000 pieces.

Based on the above formula, Bucket Sanders shall be able to earn a minimum of $2.35 per hour. Sprayers and Dippers shall be able to earn a minimum of $2.45 per hour.

An increase to all but excluded piece work rates will be made as follows:

2/1/70	2/1/71	2/1/72
3%	4%	3%

The UNION will be notified in writing of exclusions to the above increases where historic payroll records prove a given rate to consistently earn more than thirty (30) percent above the standards set forth as "Piece Work Earning Opportunity".

6. NEW PIECE WORK RATES: All new piece work rates put into effect following the effective date of this Agreement shall be subject to the Grievance and Arbitration Procedures contained in this Agreement. Such new piece work rate or rates on which some work has been performed may be grieved within the first thirty (30) days of the existence of such new piece work rates. Should the job not be performed within the thirty (30) days after posting, the standard can still be grieved upon the next run.

Disputes: Should any disputes develop regarding any of the established and/or new piece work rates, an earnest effort shall be made by the parties to resolve the disputes through the Grievance and Arbitration Procedures. Before any piece work rate disputes are submitted to Arbitration, the UNION shall have the right to have its Industrial Engineer check out the data relating to such disputed rates and/or take-on-the-job time studies as required or deemed necessary.

The Company and Union agrees, that the grieved rate shall be restudied within the thirty (30) days after posting or upon the next run, in an attempt to resolve the dispute. If, however, the operator feels the new adjusted rate is still unfair he may submit it to the next step of the grievance procedure.

Retroactivity: All piece work rates in dispute resolved through the grievance or arbitration procedure shall be made retroactive to the date of filing of the written grievance when such is resolved favorably to the employees.

Permanent Piece Work Rates: Any Piece Work Rate that has not been protested within thirty (30) days as relating to new rates, shall remain as permanent rates and shall not be changed in any form except for the following reason:

That if styles, materials, equipment and production methods are changed to the extent that such changes affect the piece work rates by at least five (5) percent plus or minus. Only elements involved in methods change are to be changed.

7. APPLICATION OF PWS AND BASE RATES:

PWS Rates: PWS rates in all categories shall be paid for work performed by piece work employees on unrated job operations that are normally considered piece work jobs, for repair, rework or salvage work at the request of the EMPLOYER.

Base Rate Pay: Any repair or rework resulting from the employee's faulty workmanship and "make work" time in temporary slack work periods will be paid for at the employee's base rate.

Delay and Down Time: The piece work employees shall have their department manager record any delay and down time on proper time cards and this time shall be paid for at the base rate.

8. Night Shift Premium: If an employee is transferred from the day shift to the night shift, for company convenience, a ten (10) cents per hour premium will be paid while the employee remains on the night shift.

9. The company agrees that piece work rates shall not be effective, unless posted in the department. In addition to posting piece work rates in the department, a copy of all piece work rates, new or changed, shall be given to the Chief Steward."

4. That on April 14, 1970, Local 314 filed a grievance alleging that the Respondent had failed to schedule weekly grievance meetings in accordance with Article 8(d) of the agreement; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970 and on several occasions thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed James L. Stern to act as arbitrator in resolving said grievance; that on April 13, 1971, the Complainant advised Stern that said grievance had been resolved and withdrew said grievance from arbitration.

5. That on April 14, 1970, Local 314 filed a grievance alleging that the Respondent had failed to properly indicate piece work rates on piece work tickets; that representatives of the Respondent met with representative. of the Complainant sometime in the month of October 1970, and on several occasions thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed Donald V. Staudter to act as arbitrator in resolving said grievance and that since February 12, 1971, the Respondent has refused and continues to refuse to proceed to arbitration on said grievance.

6. That on April 15, 1970, Local 314 filed a grievance alleging that the Respondent had either cut certain piece work rates or failed to increase certain piece work rates 3% on February 1, 1970 in violation of Article 33 of the agreement; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970, and on several occasions thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on March 22, 1971, the Federal Mediation and Conciliation Service appointed Harold W. Davey to act as arbitrator in resolving said grievance; that on or about April 12, 1971, said Davey notified the Respondent that he was available to hear said grievance sometime in August, 1971, and suggested that the parties substitute Clifford E. Smith as arbitrator if they desired to proceed to arbitration before August, 1971; that on April 13, 1971, the Complainant indicated its willingness to accept the substituiton of Smith but stated that in the event the Company did not concur in the substitution of Smith within two weeks that the parties should proceed to arbitration before Davey in August, 1971; that

since April 12, 1971, the Respondent has failed to concur in the substitution of Smith and has refused and continues to refuse to proceed to arbitration on said grievance.

7. That on April 20, 1970, Local 314 filed a grievance alleging that the Respondent had failed to post piece work rates as required by Article 33, Section 9 of the agreement; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970, and on several dates thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed Hy Fish to act as arbitrator in resolving said grievance; that since the appointment of Fish the Respondent has refused and continues to refuse to proceed to arbitration of said grievance.

8. That on July 16, 1970, Local 314 filed a grievance alleging that the Respondent had violated Article 33 of the agreement by its handling of erroneous piece work tickets; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970, and on several occasions thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed Robert A. Ratner to act as arbitrator in resolving said grievance; and that since the appointment of said Ratner the Respondent has refused and continues to refuse to proceed to arbitration on said grievance.

9. That on July 27, 1970, Local 314 filed a grievance alleging that the Respondent had violated Article 11 of the agreement by its scheduling of vacations; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970, and on various dates thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed Reynolds C. Seitz to act as arbitrator in resolving said grievance; that since the appointment of Seitz the Respondent has refused and continues to refuse to proceed to arbitration.

10. That on July 31, 1970, Local 314 filed a grievance alleging that the Respondent had made improper job postings in violation of Article 19 of the agreement; that representatives of the Respondent met with representatives of the Complainant sometime in the month of October 1970, and on several occasions thereafter in an effort to resolve said grievance; that on December 17, 1970, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 12, 1971, the Federal Mediation and Conciliation Service appointed Philip G. Marshall to act as arbitrator in resolving said grievance; that on February 22, 1971, the Complainant notified Marshall that said grievance had been resolved and withdrew said grievance from arbitration.

11. That sometime during 1970 Local 314 filed a grievance alleging that the Respondent had violated Article 33 of the agreement by establishing improper incentive rates; that representatives of the Respondent met with representatives of the Complainant on several occasions prior to January 20, 1971, in an effort to resolve said grievance; that on January 20, 1971, the Complainant requested that the Federal Mediation and Conciliation Service appoint an arbitrator to resolve said grievance; that on February 10, 1971, the Federal Mediation and Conciliation Service appointed Robert A. Ratner

to act as arbitrator in resolving said grievance; that on April 13, 1971, the Complainant advised Ratner that said grievance had been resolved and withdrew said grievance from arbitration.

Upon the basis of the above and foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS OF LAW

1. That Algoma Wood Industries, Inc., by its refusal to proceed to arbitration on the grievance dated April 14, 1970, alleging that it has failed to properly indicate piece work rates on piece work tickets, has violated and is violating the terms of the collective bargaining agreement existing between it and Upholsterers' International Union of North America, AFL-CIO, and by such refusal has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Statutes.

2. That Algoma Wood Industries, Inc., by its refusal to proceed to arbitration on the grievance dated April 15, 1970, which alleges that the Respondent has either cut certain piece work rates or failed to increase certain piece work rates 3% on February 1, 1970, in violation of Article 33 of the agreement, has violation and is violating the terms of the collective bargaining agreement existing between it and Upholsterers' International Union of North America, AFL-CIO, and by such refusal has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Statutes.

3. That Algoma Wood Industries, Inc., by its refusal to proceed to arbitration on the grievance dated April 20, 1970, alleging that the Respondent has failed to post piece work rates as required by Article 33, Section 9 of the agreement has violated and is violating the terms of the collective bargaining agreement existing between it and Upholsterers' International Union of North America, AFL-CIO, and by such refusal has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Statutes.

4. That Algoma Wood Industries, Inc., by its refusal to proceed to arbitration on the grievance dated July 16, 1970, alleging that the Respondent has violated Article 33 of the agreement by its handling of erroneous piece work tickets, has violated and is violating the terms of the collective bargaining agreement existing between it and Upholsterers' International Union of North America, AFL-CIO, and by such refusal has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Statutes.

5. That Algoma Wood Industries, Inc., by its refusal to proceed to arbitration on the grievance dated July 27, 1970, alleging that it has violated Article 11 of the agreement by its scheduling of vacations, has violated and is violating the terms of the collective bargaining agreement existing between it and Upholsterers' International Union of North America, AFL-CIO, and by such refusal has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Examiner makes the following

ORDER

IT IS ORDERED that Algoma Wood Industries, Inc., its officers and agents shall immediately

1. Cease and desist from refusing to proceed to arbitration on the following five grievances:

(a) The April 14, 1970, grievance alleging that it has failed to properly indicate piece work rates on piece work tickets.

(b) The April 15, 1970, grievance alleging that it has either cut certain piece work rates or failed to increase certain piece work rates 3% on February 1, 1970, in violation of Article 33 of the agreement.

(c) The April 20, 1970, grievance alleging that it has failed to post piece work rates as required by Article 33, Section 9 of the agreement.

(d) The July 16, 1970, grievance alleging that it has violated Article 33 of the agreement by its handling of erroneous piece work tickets.

(e) The July 27, 1970, grievance alleging that it has violated Article 11 of the agreement by its scheduling of vacations.

2. Take the following affirmative action which the Commission finds will effectuate the policies of the Wisconsin Employment Peace Act:

(a) Comply with the arbitration provisions of the collective bargaining agreement existing between it and the Upholsterers' International Union of North America, AFL-CIO, with respect to the five aforementioned grievances.

(b) Notify the Upholsterers' International Union of North America, AFL-CIO, that it will proceed to arbitration on said grievances and on all issues concerning same.

(c) Participate with Upholsterers' International Union of North America, AFL-CIO, in the arbitration proceeding before the arbitrators selected by the Federal Mediation and Conciliation Service to resolve said grievances.

(d) Notify the Wisconsin Employment Relations Commission in writing within twenty (20) days from receipt of a copy of this Order as to what steps it has taken to comply herewith.

Dated at Madison, Wisconsin, this 8th day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By George R. Fleischli
George R. Fleischli, Examiner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

UPHOLSTERERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO, Complainant, vs. ALGOMA WOOD INDUSTRIES, INC., Respondent.	Case II No. 14536 Ce-1348 Decision No. 10253-A

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Complainant filed the Complaint herein on March 29, 1971, alleging that the Complainant and Respondent are parties to a collective bargaining agreement; that the Complainant has submitted seven unresolved grievances to arbitration pursuant to that agreement; that the Federal Mediation and Conciliation Service has appointed arbitrators to resolve said grievances and that the Respondent has refused to submit said grievances to arbitration or to participate in the arbitration hearings. An additional grievance, one dated July 31, 1970, alleging improper job postings in violation of Article 19, was resolved on February 22, 1971, more than a month before the Complaint was filed. The Complainant introduced evidence regarding that grievance at the hearing along with the evidence regarding the seven grievances complained about presumably for the purpose of presenting a complete factual picture. After the Complaint was filed and before the hearing on the Complaint, two of the seven grievances complained about were resolved, the grievance dated April 14, 1970, alleging that the Respondent had failed to schedule weekly grievance meetings in accordance with Article 8(d) of the agreement and the grievance filed sometime during 1970 alleging that the Respondent had violated Article 33 of the agreement by establishing improper incentive rates.

The Respondent did not file a formal answer to the Complaint but presented certain arguments at the hearing in defense of its refusal to proceed to arbitration. Specifically the Respondent argues that the grievances are untimely under Article 22, paragraph (a)(2) and that, in its view, the Complainant's decision to take all of the grievances to arbitration at once was a tactical move rather than a decision based on the merits of said grievances.

It appears that of the five remaining grievances all five of them involve a claim which, on its face is covered by the collective bargaining agreement. 1/ The grievance dated April 14, 1970, alleging that the

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1/ Under the Court decisions applying Section 301 of the National Labor Relations Act, as amended, and the decisions of this Commission, a party to a collective bargaining agreement which contains a provision requiring arbitration of grievances, is required to proceed to arbitration if the grievance arises out of a claim which on its face is covered by the agreement. Steelworkers v. American Manufacturing Company 363 US 564 (1960); Seaman-Andwall Corporation (5910) 1/62.

Respondent has failed to properly indicate piece work rates on piece work tickets does not specifically reference any provision of the collective bargaining agreement which was allegedly violated. Even if there is no specific provision of the agreement on which the Complainant can rely, the broad definition accorded grievances by Article 22, paragraph (a) would appear to include that grievance in the arbitration process since it clearly deals with a working condition.

The argument of the Respondent regarding the alleged untimeliness of the five remaining grievances raises a question of procedural arbitrability. Since the definition of a grievance includes "any difference between the parties as to the proper interpretation or application of the terms of this agreement" [emphasis supplied], questi of procedural arbitrability have been preserved for the arbitrator and should be submitted to arbitration along with any substantive arguments the Respondent might have regarding the particular grievance. 2/ It may be that the Complainant has lost its right to proceed to arbitratic on the merits of some or all of the remaining grievances because of its alleged failure to deligently pursue them or obtain an extension agreement from the Respondent. However, it is not the function of this Commission to pass judgment on the merits of that argument since the parties have specifically reserved such decisions for the arbitrator.

The Respondent's contention that the Union's decision to request arbitration on seven of the eight grievances on December 17, 1970, was a tactical move, bears no relevancy to the question of whether or not the Respondent is in violation of an agreement to arbitrate said grieva There is some indication in the correspondence that certain of the five remaining grievances are less importaant than others. However, that do not excuse the Respondent's refusal to proceed to arbitration on all of the grievances. The parties have apparently had some discussions regar the possibility of dropping some of the grievances or consolidating som of the grievances before a single arbitrator and nothing herein is inte to discourage such accomodation; but even if the Complainant is unwilli to drop any of the grievances and the parties are unable to reach an accord on consolidation, the Respondent has obligated itself to proceed to arbitration on each of the five remaining grievances and the Respond suspicion regarding the Complainant's motivation in no way nullifies th obligation. Such an argument, if there is any basis in fact to support it, can be presented to the arbitrators.

For the above and foregoing reasons the Examiner has this day foun that the Respondent's refusal to proceed to arbitration on the five remaining unresolved grievances is in violation of Section 111.06(1)(f) of the Wisconsin Statutes and has ordered the Respondent to proceed to arbitration.

Dated at Madison, Wisconsin, this 8th day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By George R. Fleischli
George R. Fleischli, Examiner