

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case VIII  
No. 14912 A-1352  
Decision No. 10515-A

No. 100-555-A

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

Following the issuance of the arbitration award, it is apparent that the Employer has not complied therewith since it seeks a review of the arbitration award by the Commission. The Union filed a motion requesting the Commission to dismiss the petition for review on the grounds stated in the Order.

The Union is correct in stating that there is no provision in the Wisconsin Employment Peace Act which permits one of the parties to an arbitration proceeding to petition the Commission for a review of the arbitration award. While Section 111.10 of the Wisconsin Employment Peace Act provides that proceedings in arbitration cases involving awards issued by arbitrators appointed by the Commission shall be as provided in Chapter 298, Wisconsin Statutes, we do not conclude that the Commission has jurisdiction to entertain a petition for review to vacate the award pursuant to Chapter 298.10 of the Wisconsin Statutes, which provides that the court in whose jurisdiction the award was issued may make an order vacating the award upon application of any party to the arbitration when certain factors exist.

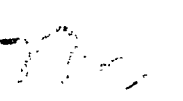
We do not mean to say that the Commission has no power to review the validity of the award. However, such review is made where one of the parties seeks an enforcement of the award as an unfair labor practice pursuant to Sections 111.06(1)(f) and (g) or 111.06(2)(c) and (d) of the Wisconsin Employment Peace Act, where the other party involved contends that the award should be vacated on any of the grounds set forth in Section 298.10 of the Wisconsin Statutes.

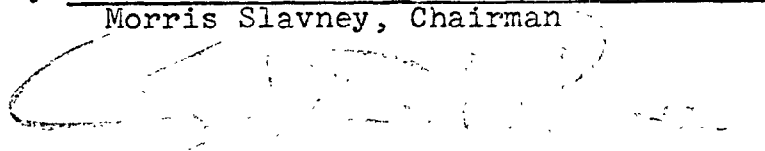
In the instant matter the award was in favor of the Union. The Union did not seek to enforce the award before the Commission but rather chose to seek such enforcement in the United States District Court for the Western District of Wisconsin. Should said federal court choose not to assert its jurisdiction in the matter and should the Union seek enforcement of the award in an action before the Commission, the Employer then could properly, in the enforcement proceeding, request the Commission to set aside the award. Our rationale herein is in no way intended to imply that the "petition for review" is or is not without merit.

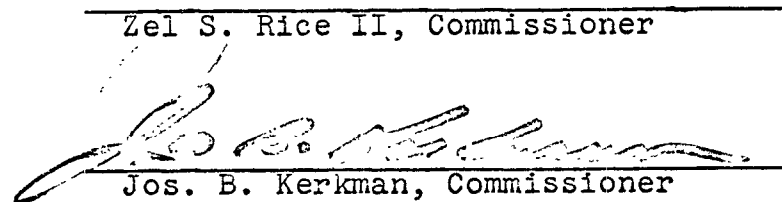
Dated at Madison, Wisconsin, this 21st day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner