

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Respondent.

No. 10633

5. That on or about December 14, 1967, the Complainant sent the following letter, over the signature of its Executive Director, to the Respondent:

"Gentlemen:

Please be advised that the Wisconsin Federation of Teachers is conducting its State Teachers Convention on October 3-4, 1968.

Pursuant to Section 40.45 (1) (b) Wisconsin Statutes, teachers have the right to attend a state teachers convention and obviously any individual teacher contract includes by reference the right to attend a state teachers convention.

Further, if teachers are paid for attending the convention held by the Wisconsin Education Association in 1968 the WFT will expect the same treatment shown to teachers who attend its 1968 convention.

If you have any questions, please feel free to contact the undersigned."

6. That, following the receipt of the above letter, the Respondent notified the Complainant that the Respondent would not pay its teachers for attending the Complainant's state teachers convention to be held on October 3 and 4, 1968; and that, however, at the same time Respondent indicated that it intended to pay teachers who attended the 1968 state convention of the WEA.

7. That on July 31, 1968, the Association and the Respondent entered into a collective bargaining agreement, in effect from July 1, 1968, to June 30, 1969, covering salaries and other conditions of employment of the certified teachers in the employ of the Respondent; and that said collective bargaining agreement contained among its provisions, the "School Calendar," which, among other things, set forth November 7 and 8, 1968, as "Teacher Convention" dates, as well as the following material provisions:

"ARTICLE VIII  
CLINICS AND WORKSHOPS

Requests for attendance at clinics and workshops shall be submitted thirty (30) days prior to proposed attendance, or upon first notification by the sponsoring organization if less than 30 days notice is given prior to the proposed attendance. Requests shall be submitted for review to the superintendent and shall give in as complete form as possible the location and duration of the clinic or workshop, its purpose, the proposed program or activities and the approximate costs of registration, travel and other expenses. Where attendance at clinics and workshops is approved by the superintendent the Board shall reimburse the expenses of such attendance, including the teacher's salary."

. . .

"ARTICLE XII  
LEAVE

. . .

- D. Absence for Personal Business. Each teacher will be allowed one day of absence during each school year, deductible from sick leave accumulation, if any, without loss of salary in order to attend to personal business or affairs of a personal nature which cannot be conducted outside the regular school day. Requests for such leave shall be made as far in advance as possible, normally not less than five days. In the event a teacher does not have an unused sick leave accumulation, such absence shall require a deduction from salary."

8. That, pursuant to Article VIII, supra, the Respondent has paid teachers for attending teachers educational conventions, other than conventions of the WEA, as well as for attendance at conferences, institutes and meetings of a professional nature.

9. That on or about September 9, 1968, the Complainant, in writing, again requested the Respondent to permit from two to six teachers, who were delegates to the Complainant's convention to be held on October 3 and 4, 1968, to attend such convention without loss of pay, and that, however, no such permission was granted by the Respondent.

10. That teachers Celia Arnold, Denita Radtke, Rudy Cook and Ken Kaye attended the Complainant's state teachers convention on one day, either October 3 or 4, 1968; that teacher Edward H. Stech attended such convention on both of said dates; that all of said teachers were not paid for their convention attendance, but were required to take a personal leave day and in addition, because of his second day of attendance, a day's pay was deducted from Stech's salary.

11. That the WEA held its state teachers convention on November 7 and 8, 1968, which convention was open only to its members; that membership in the Association does not necessarily entitle a teacher to membership in the WEA; that a number of teachers attended said convention and no deductions were made from their salaries on the days of such attendance, provided that such teachers certified their attendance; and that, however, teachers who did not attend said convention, but who attended "in-service days" conducted at their various schools on said dates, and so certified to such attendance, suffered no deductions from their salaries.

Upon the basis of the above and foregoing Findings of Fact the Commission makes the following

CONCLUSIONS OF LAW

1. That the Respondent, Joint City School District No. 1, West Allis-West Milwaukee, et al., by denying the request of the Complainant, Wisconsin Federation of Teachers, AFL-CIO, to permit from two to six teachers to attend, as delegates, the convention of the Complainant, Wisconsin Federation of Teachers, AFL-CIO, on October 3 and 4, 1968, without loss of pay, has not committed, and is not committing, any prohibited practices within the meaning of Section 111.70(3)(a) 1 and 2 of the Wisconsin Statutes.

2. That the Respondent, Joint City School District No. 1, West Allis-West Milwaukee, et al., by denying pay to teachers Celia Arnold, Denita Radtke, Rudy Cook, Ken Kaye and Edward H. Stech for their attendance at said convention of Complainant, Wisconsin Federation of Teachers, AFL-CIO, and requiring said teachers to take a personal leave day, and in further deducting a day's pay from teacher Edward H. Stech for his second day of attendance at such convention, did not commit, and is not committing, any prohibited practices within the meaning of Section 111.70(3)(a)1 and 2 of the Wisconsin Statutes.

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

ORDER

IT IS ORDERED that the complaint filed in the instant matter be, and the same hereby is, dismissed.

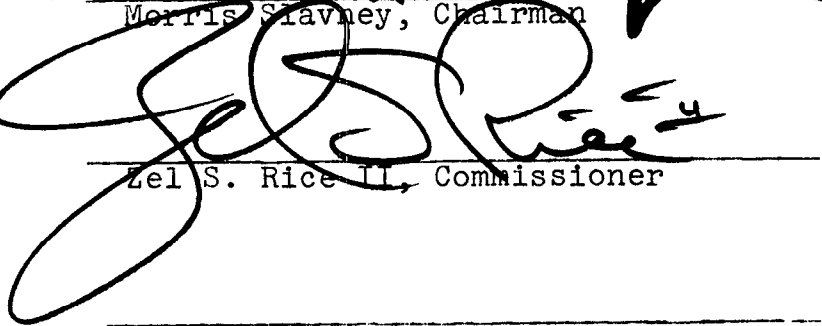
Given under our hands and seal at the  
City of Madison, Wisconsin, this 19<sup>th</sup>  
day of November, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner

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prohibited practices within the meaning of the statute. The rule of the latter case was to the extent that the refusal of the school board to change its calendar so as to grant teachers days off to attend a convention of a minority organization on days other than on which convention days had been established in the school calendar with the acquiescence of the majority organization, and the warning of discriminatory action and determination by the school board not to pay those teachers who attend the convention of the minority organization, did not constitute a prohibited practice.

Prior to the filing of the instant complaint the Commission, in a case involving the Ashland Board of Education, issued an Order Amending Examiner's Findings of Fact and Reversing Examiner's Conclusions of Law and Order (Decision No. 8708-B), wherein the Commission concluded, among other things, that the school board had committed prohibited practices by refusing to grant teachers in its employ time off to attend a regional education association convention on the same days on which said school board had permitted teachers time off to attend the WFT convention on the same dates. The Ashland case was appealed to the Circuit Court and thereafter to the Wisconsin Supreme Court, and the Commission has delayed the issuance of the instant Order until such time as the Supreme Court issued its decision in the Ashland case. On November 5, 1971, the Supreme Court issued its decision in the Ashland School Board matter. Although the issue in the Ashland School Board case was not identical to the issue involved herein, the Court did discuss both attendance at state conventions and regional conventions, and we observe no language in the Court's decision which would overrule the decision of the Dane County Circuit Court in affirming the Commission's decision rendered in the Kenosha School Board case cited above. In the Ashland case the majority opinion concludes with the following language:

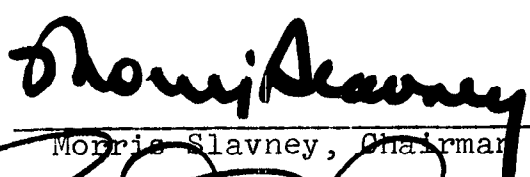
"The problems apparent in this case could easily be solved by the unions having their state conventions at the same time. It seems that this is but a small price to pay when contrasted to the problems facing the school board in determining if part of the teachers can be excused with or without compensation on various and different dates. Another alternative, probably less desirable, is that the legislature enact more definitive and undoubtedly more rigid classifications and rules concerning teachers' conventions."

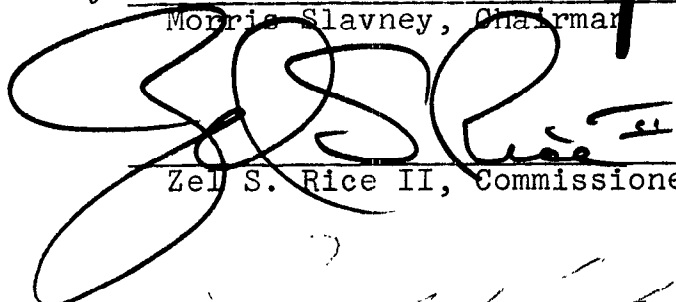
We have, therefore, dismissed the complaint.


Dated at Madison, Wisconsin, this 19<sup>th</sup> day of November, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner