

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SUPERIOR CITY EMPLOYEES, LOCAL 235
and LOCAL 244, AFSCME, AFL-CIO,

Complainants,

vs.

CITY OF SUPERIOR, WISCONSIN,

Respondent.

Case XIV
No. 15125 MP-103
Decision No. 10681-B

ORDER OF DISMISSAL

A complaint of prohibited practices having been filed with the Wisconsin Employment Relations Commission by Superior City Employees, Local 235 and Local 244, AFSCME, AFL-CIO, wherein they alleged that the City of Superior, Wisconsin, had committed certain prohibited practices within the meaning of Section 111.70(3)(a)1, Section 111.70(3)(a)4 and Section 111.70(3)(a)5 of the Wisconsin Statutes; and the Commission having appointed the undersigned as Examiner to make and issue Findings of Fact, Conclusions of Law and Order in the matter; and the Complainants having filed a motion with the Examiner on December 20, 1971, asking that the complaint be dismissed without prejudice; and the Examiner having denied said motion by Order dated December 30, 1971; 1/ and the matter having been postponed indefinitely at the request of the Complainant; and prior to any further action in the case, the Complainants having filed a new motion with the Examiner requesting that the complaint be dismissed without prejudice and the Respondent having filed a statement in opposition to the Complainant's motion that the complaint be dismissed without prejudice and a motion that the complaint be dismissed with prejudice; and the Examiner having considered both motions and being satisfied that the complaint should be dismissed without resolving the question of prejudice;

NOW, THEREFORE, it is

ORDERED

That the complaint in the above entitled matter be, and the same hereby is, dismissed, without resolving the question of prejudice.

Dated at Madison, Wisconsin, this 25th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By George R. Fleischli
George R. Fleischli, Examiner

1/ City of Superior (10681-A) 2/71

MEMORANDUM ACCOMPANYING
ORDER OF DISMISSAL

Subsequent to the filing of the complaint in the instant matter, the Complainants and the Respondent have allegedly entered into a verbal agreement which presently settles the matters complained of in the complaint. That agreement was apparently put in writing and signed by the representatives of the Complainant and Respondent. In spite of that agreement the Complainant asked, in its motion of December 20, 1971, that the complaint be dismissed without prejudice and that motion was denied for the reasons set forth in the memorandum attached to the order denying the motion. 2/

In renewing their motion that the complaint be dismissed without prejudice, the Complainants allege that certain threats or statements have been made by representatives of the Respondent which threats or statements, if carried out, would constitute "a continuation of the prohibited practice charges" or "new prohibited practices" which would be inseparable from the prohibited practices alleged in the instant complaint. The Complainant attached three (3) affidavits in support of its allegations in this regard.

The Respondent's motion alleges that the matter complained of has been settled and should, therefore, be dismissed with prejudice. The Respondent's motion to dismiss with prejudice is accompanied by an affidavit wherein certain allegations are made, which allegations appear to dispute a number of the matters asserted by the Complainants in the affidavits accompanying their motion.

The Examiner sees no need to order a hearing to attempt to resolve the issues prematurely raised by the Complainants' and the Respondents' motions and affidavits and has therefore dismissed the complaint without attempting to decide the question of prejudice. Both parties are in agreement that the complaint should be dismissed and it has been so ordered. In the event the Complainants do file a complaint of prohibited practices in the future, the question of whether or not there is a binding settlement agreement disposing of some or all of the violations alleged may be raised at that time.

Dated at Madison, Wisconsin, this 25th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By George R. Fleischli
George R. Fleischli, Examiner