

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

RACINE COUNTY DEPUTY SHERIFFS'
ASSOCIATION,

Complainant,

vs.

RACINE COUNTY,

Respondent.

Case XII
No. 15347 MP-123
Decision No. 10917-B

ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER AND MEMORANDUM

Examiner Marvin L. Schurke having on June 22, 1972, issued his Findings of Fact, Conclusions of Law and Order in the above entitled matter, wherein he found that the above named Respondent had committed prohibited practices within the meaning of the Municipal Employment Relations Act by refusing to negotiate with the above named Complainant concerning the payment of wage increases for 1972 retroactive to the termination date of the 1971 collective bargaining agreement, and wherein said Examiner ordered said Respondent to cease and desist from refusing to bargain such matter, and further ordered that Respondent bargain with said Complainant with respect to the payment of wage increases for 1972 retroactive to the 1971 collective bargaining agreement, and further, to notify the Wisconsin Employment Relations Commission within twenty (20) days from the date of the execution of the decision as to what steps the Respondent had taken to comply with the Examiner's Order; that on June 29, 1972, said Respondent having timely filed a "Notice of Appeal" of the Examiner's decision; and the Commission having reviewed the record, the Examiner's decision and the "Notice of Appeal", and being satisfied that the Examiner's Findings of Fact, Conclusions of Law and Order and Memorandum should be affirmed;

NOW, THEREFORE, it is

ORDERED

That, pursuant to Section 111.07(5) of the Municipal Employment Relations Act, the Wisconsin Employment Relations Commission hereby adopts the Examiner's Findings of Fact, Conclusions of Law and Order, as well as the Memorandum accompanying same, issued in the above entitled matter as its Findings of Fact, Conclusions of Law and Order and Memorandum accompanying same; and, therefore, the Respondent, Racine County, shall notify the Wisconsin Employment Relations Commission within ten (10) days of the receipt of a copy of this Order as to what steps it has taken to comply therewith. 1/

Given under our hands and seal at the
City of Madison, Wisconsin, this 14th
day of July, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner

Wes. B. Kerkman
Wes. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER AND MEMORANDUM

We have today affirmed the decision of the Examiner issued in the instant matter, and we have adopted his rationale in support of his Order. However, we wish to add the following remarks to the Memorandum of the Examiner.


As set forth by the Examiner, the fact that the employees involved continued their employment after the expiration of the date of the collective bargaining agreement did not "extend" the terms of the 1971 agreement, and, therefore, such employment under such conditions did not estop the Union from proposing in the bargaining sessions that the terms and conditions of the 1972 agreement be retroactively applied to January 1, 1972. The fact that there exists an ordinance prohibiting retroactive payment for services performed does not estop the Union from proposing retroactivity, nor does it relieve the Employer from its duty to bargain on the matter of retroactivity. For what the County enacted with respect to retroactivity, it can repeal if it so desires.

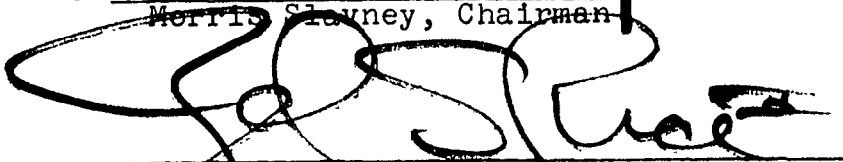
Wages, hours and conditions of employment are proper subjects of collective bargaining under the Municipal Employment Relations Act. The retroactive application of matters relating to wages, hours and conditions of employment likewise are proper subjects of collective bargaining under the Act. The adamant position of the Employer to refuse to bargain on retroactivity of any bargainable matter clearly constitutes a refusal to bargain in good faith with the Union in violation of Sections 111.70(3)(a)⁴ and 1 of the Act.

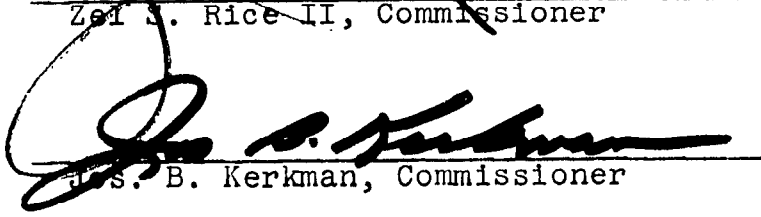
Dated at Madison, Wisconsin, this 14th day of July, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


J. B. Kerkman, Commissioner