

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ROBERT PLIZKA, and the ASHLAND
POLICE GRIEVANCE COMMITTEE,

Complainant,

vs.

CITY OF ASHLAND,

Respondent.

Case III
No. 15420 MP-124
Decision No. 10984-A

ORDER DENYING MOTION FOR DELAY OF HEARING

Complaint of prohibited practices having been filed with the Wisconsin Employment Relations Commission in the above entitled matter; and the Commission having appointed Marvin L. Schurke, 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 applied in Section 111.07(5) of the Wisconsin Statutes; and the Examiner having set the complaint for hearing June 13, 1972, at Ashland, Wisconsin; and the Respondent, by its counsel, having filed with the Examiner a motion to delay hearing to a date not yet certain but subsequent to the decision of the Circuit Court for Ashland County on an appeal from a decision of the Ashland Police and Fire Commission related to items alleged in the complaint as prohibited practices; and the Examiner having considered said motion and being fully advised in the premises makes and issues the following

ORDER

That the Respondent's motion to postpone the conduct of the hearing in the above entitled matter to a date not yet certain but subsequent to the decision of the Circuit Court for Ashland County on the appeal of Complainant Plizka from the decision of the Ashland Police and Fire Commission, be, and the same hereby is, denied.

Dated at Madison, Wisconsin, this 2nd day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Marvin L. Schurke
Marvin L. Schurke, Examiner

No. 10984-A

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION FOR DELAY OF HEARING

On May 8, 1972, Notice of Hearing was served on the City of Ashland with a copy of the complaint filed in the captioned matter. Such notice set hearing in the matter for June 13, 1972, and set June 2, 1972, as the date for making an answer to such complaint. The Respondent filed an answer with the Commission on June 2, 1972, and at the same time filed a "Request for Delay" of the hearing scheduled in the matter, alleging:

- "1. The decision of the Police and Fire Commission referred to in the Complaint has been appealed.
2. The appeal is pending before the Honorable Lewis J. Charles, Circuit Judge for Ashland County.
3. Arguments have been made by the parties and briefs are to be filed in accordance with a schedule stipulated to by the parties after which a decision will be made by the Court.
4. We urge that hearing in this case should be postponed until after the decision in Circuit Court because if the decision is in favor of the appellant the question here will be mute.
5. We urge that orderly procedure also warrants delay in this case until after disposition of the case under 62.13(5)(b)."

The complaint filed in the instant matter alleges conduct which if proved would constitute prohibited practices within the meaning of Section 111.70, Wisconsin Statutes. Those allegations include charges that the Respondent discriminated against Complainant Plizka with respect to his tenure of employment and requested as a remedy that such Complainant be reinstated and made whole for the loss of pay suffered by reason of the alleged prohibited practices. The suspension and subsequent demotion of Complainant Plizka have been the subject of proceedings before the Ashland Police and Fire Commission, and are now on appeal before the Circuit Court for Ashland County. The complaint herein also contains allegations that employees have been interfered with, restrained and coerced in the exercise of their rights under Section 111.70(2), Wisconsin Statutes, and allegations of refusal to bargain. The allegations of the complaint and the potential remedies available through proceedings before the Commission are different in scope and nature from the issues before the Circuit Court on appeal from the Police and Fire Commission, and a decision in favor of the Appellant in the Circuit Court will not render this case moot. The Examiner has therefore denied the request for delay made by the Respondent.

Dated at Madison, Wisconsin, this 2nd day of June, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Marvin L. Schurke, Examiner

No. 10984-A