

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OOSTBURG EDUCATION ASSOCIATION and  
RUTHANNE MEYER,

Complainants,

vs.

OOSTBURG JOINT SCHOOL DISTRICT NO. 14  
and BOARD OF EDUCATION OF OOSTBURG  
JOINT SCHOOL DISTRICT NO. 14,

Respondent.

Case V  
No. 15891 MP-154  
Decision No. 11196-B

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

Examiner Herman Torosian having on November 17, 1972, issued Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, in the above entitled matter, wherein he found that the above named Respondent had committed a prohibited practice within the meaning of Section 111.70(3)(a)5 by refusing to proceed to arbitration on a grievance involving the non-renewal of the teaching contract of Ruthanne Meyer, and wherein the Examiner ordered the above named Respondent, among other things, to proceed to arbitration on said grievance; and said Respondent having timely filed with the Commission a petition requesting the Commission to review the Examiner's decision; and the Commission having reviewed the entire record, the decision of the Examiner, and the Petition for Review, and being satisfied that the Findings of Fact, Conclusion of Law and Order, with Accompanying Memorandum, issued by the Examiner should be affirmed;

NOW, THEREFORE, it is

ORDERED

That, pursuant to Section 111.07(5) of the Wisconsin Statutes, the Wisconsin Employment Relations Commission hereby adopts the Examiner's Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, issued in the above entitled matter as its Findings of Fact, Conclusions of Law and Order; and, therefore, the Respondent, Oostburg Joint School District No. 14 and Board of Education of Oostburg Joint School District No. 14, 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.

Given under our hands and seal at the  
City of Madison, Wisconsin; this 28th  
day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Steppay*  
Morris Steppay, Chairman

*Earl S. Rice II*  
Earl S. Rice II, Commissioner

*Jos. B. Kerkman*  
Jos. B. Kerkman, Commissioner

No. 11196-B

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

In its Petition for Review the School District alleged, in effect, that the Examiner erred in finding that the School District committed a prohibited practice by refusing to proceed to arbitration on the failure of the School District to non-renew Ruthanne Meyer as a teacher for the 1972-1973 school year, contending that the failure to renew said contract "in no manner brings in force the 1971-1972 contract or its provision as to arbitration." The collective bargaining agreement involved was effective from August 26, 1971, through August 29, 1972. Apparently the Municipal Employer's position is prefaced on the assumption that since the individual teacher contract involved would have been for the 1972-1973 school year the agreement which expired prior to the commencement of said school year does not apply.

The Examiner, in his Memorandum accompanying his decision, clearly met this issue by stating "Here the instant dispute arose during the term of the 1971-1972 agreement and is on its face governed by the collective bargaining agreement." To be more specific, as indicated in the Examiner's Findings of Fact, on March 2, 1972, the School District notified Meyer that a decision was made not to renew her teaching contract for the coming school term. On March 17, 1972, the bargaining representative requested the School District to proceed to arbitration on the grievance with respect to the School District's determination not to renew Meyer's teaching contract. Further, on April 27, 1972, the bargaining representative specifically stated that the teacher "grieves the action of the Board to terminate her employment . . ." A final request for arbitration was made by the attorney for the bargaining representative in a letter dated July 7, 1972, addressed to the attorney for the School District. On July 19, 1972, the School District, in a letter to Counsel for the bargaining representative, denied such request. Thus, it is clear that the action leading to the grievance, as well as the request to process the grievance through arbitration as provided in the collective bargaining agreement, all occurred during the term of said collective bargaining agreement. The mere fact that the effect of the non-renewal occurred following the termination of the agreement involved does not extinguish the rights established in the collective bargaining agreement.

We have carefully reviewed the brief of the School District filed with the Examiner prior to the issuance of the decision and wish to comment on portions of the brief which was not responded to by the Examiner in his Memorandum. Counsel for the School District contends that the District could refuse to enter into any type of agreement or to bargain collectively with the Gostburg Education Association and in that regard cites LaCrosse County Institution Employees Local 227, AFSCME, AFL-CIO vs. Wisconsin Employment Relations Commission (52 Wis. 2d 295) as a precedent therefor. It should be noted that the decision issued by our Supreme Court in that case involved Section 111.70 prior to its amendments in November 1971. We direct the School District's attention to Section 111.70(3)(a)4 of the Municipal Employment Relations Act, effective November 11, 1971, which provides that it is a prohibited practice for a municipal employer "to refuse to bargain collectively with a representative of a majority of its employes in an appropriate collective bargaining unit. . . ." Furthermore, Counsel for the School District contends that Chapter 118 of the Wisconsin

Statutes, pertaining to teacher contracts, was passed by the legislature in 1967 "approximately nine years after Section 111.70 of the Wisconsin Statutes, which was passed in the year of 1959." We again direct Counsel's attention to the fact that the Municipal Employment Relations Act became effective November 11, 1971. We have, therefore, ordered the School District to comply with the Order of the Examiner and to notify the Commission within ten (10) days of the receipt hereof as to what steps it has taken to proceed to arbitration with regard to the non-renewal of Ruthanne Meyer.

Dated at Madison, Wisconsin, this 28th day of December, 1972,

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Joe B. Kerkman, Commissioner