

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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INTERNATIONAL UNION OF UNITED BREWERY,  
FLOUR, CEREAL, SOFT DRINK AND DISTILLERY  
WORKERS OF AMERICA, AFL-CIO, BREWERY  
WORKERS LOCAL UNION NO. 90,

Complainant,

vs.

THE PEOPLES BREWING COMPANY,

Respondent.  
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Case III  
No. 16078 Ce-1446  
Decision No. 11350-A

Appearances:

Zubrensky, Padden, Graf & Bratt, Attorneys at Law, by  
Mr. George F. Graf, for the Complainant.  
Mr. Harold Moss, for the Respondent.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

Complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission in the above-entitled matter, and the Commission having authorized Stanley H. Michelstetter II, a member of the Commission's staff, to act as an Examiner and to make and issue Findings of Fact, Conclusions of Law and Orders as provided in Section 111.07(5) of the Wisconsin Employment Peace Act, and a hearing on such complaint having been held at Oshkosh, Wisconsin, on November 3, 1972 before the Examiner, and the Examiner having considered the evidence, arguments of counsel and being fully advised in the premises, makes and files the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. That International Union of United Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America, AFL-CIO, Brewery Workers Local Union No. 90, hereinafter called the Complainant, is a labor organization with offices at 231 West Wisconsin Avenue, Milwaukee, Wisconsin.

2. That the Peoples Brewing Company, hereinafter called the Respondent, is an employer with offices at 1506-1512 South Main Street, Oshkosh, Wisconsin.

3. That at all times material herein, the Respondent has recognized the Complainant as the exclusive bargaining representative of certain of its employees; that in said relationship the Respondent and Complainant have been parties to a collective bargaining agreement covering the wages, hours and working conditions of said employees, which agreement is dated October 13, 1970 and was in effect at all times material herein. That said agreement in Section 17, provides for final and binding arbitration of disputes between the Complainant and Respondent thereto.

4. That during the term of said agreement a dispute arose as to whether Grievant Walter Volkman should have been classified as a regular employee.

5. That pursuant to said collective bargaining agreement, the parties requested the appointment of and the Wisconsin Employment Relations Commission appointed an arbitrator to hear said matter. That said Arbitrator held a hearing in said matter August 15, 1972.

6. That on September 11, 1972 the Arbitrator issued an Arbitration Award in said matter, a copy of which was received by the Employer, which Arbitration Award stated:

"The Company is ordered to provide the grievant with those benefits a regular employee is entitled to under the terms of the collective bargaining agreement."

7. That Respondent at all times has refused and failed to comply with said Award.

Upon the basis of the above and foregoing Findings of Fact, the Examiner makes the following

#### CONCLUSION OF LAW

That The Peoples Brewing Company, by failing to provide Grievant Walter Volkman with those benefits a regular employee is entitled to under the terms of the collective bargaining agreement as required in the Arbitration Award issued on September 11, 1972, has refused and failed, and continues to refuse and fail, to comply with said Award and therefore, in that regard, The Peoples Brewing Company has committed and continues to commit unfair labor practices within the meaning

of Section 111.06(1)(g) of the Wisconsin Employment Peace Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Examiner makes the following

ORDER

IT IS ORDERED that The Peoples Brewing Company, its officers and agents, shall immediately

1. Cease and desist from failing and refusing to recognize and accept as conclusive the Arbitration Award issued on September 11, 1972 with respect to providing the Grievant, Walter Volkman, with those benefits a regular employe is entitled to under the terms of the collective bargaining agreement.

2. Take the following affirmative action which will effectuate the policies of the Wisconsin Employment Peace Act:

- a. Immediately comply with the Arbitration Award issued on September 11, 1972, by providing the Grievant with those benefits a regular employe is entitled to under the terms of the collective bargaining agreement;
- b. Notify the Wisconsin Employment Relations Commission within twenty (20) days from the date hereof as to what action it has taken to comply with this Order.

Dated at Milwaukee, Wisconsin, this 18th day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stanley H. Michelstetter II  
Stanley H. Michelstetter II, Examiner

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

The Respondent appeared at the hearing and admitted all the Complainant's allegations of fact contained in its Complaint. Respondent raised no issue of law or fact except the power of the Examiner to order the Respondent to abide by the Arbitration Award properly litigated by the parties and issued by the Arbitrator on September 11, 1972. Such power and responsibility is clearly placed on this Examiner by Wis. Rev. Stat. (1969) Secs. 111.06(1)(f), 111.07(4) and 111.07(5). Therefore the Respondent is ordered to abide by that Award.

Dated at Milwaukee, Wisconsin, this 18th day of December, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stanley H. Michelstetter II  
Stanley H. Michelstetter II, Examiner