

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

CEDARBURG LAW ENFORCEMENT ASSOCIATION :

For Final and Binding Arbitration :

Involving Law Enforcement Personnel :

in the Employ of :

CITY OF CEDARBURG :

Case VI

No. 16221 MIA-22

Decision No. 11617

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FINDINGS OF FACT, CONCLUSIONS OF LAW, CERTIFICATION OF
RESULTS OF INVESTIGATION AND ORDER REQUIRING ARBITRATION

The Cedarburg Law Enforcement Association having, on November 13, 1972, filed a petition with the Wisconsin Employment Relations Commission requesting that the Commission initiate compulsory final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act, for the purpose of resolving an impasse arising in collective bargaining between the Petitioner and the City of Cedarburg on matters affecting the wages, hours and conditions of employment of law enforcement personnel in the employ of said Municipal Employer; and the Commission, by John T. Coughlin, having conducted an investigation on such petition at Cedarburg, Wisconsin, on December 7, 1972 and during the course of such investigation the parties having made known the facts material thereto, and the Commission being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law, Certification of Results of Investigation and Order Requiring Arbitration.

FINDINGS OF FACT

1. That the Cedarburg Law Enforcement Association, hereinafter referred to as the Petitioner, is a labor organization and has its office at Cedarburg, Wisconsin.

2. That the City of Cedarburg, hereinafter referred to as the Municipal Employer, has its offices at the City Hall, Cedarburg, Wisconsin.

3. That the Petitioner at all times material herein has been, and is, the voluntarily recognized exclusive collective bargaining representative of the law enforcement personnel in the employ of the Municipal Employer.

4. That on November 13, 1972, the Petitioner filed a petition with the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, requesting said Commission to initiate final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act, hereinafter referred to as MERA, with regard to an alleged impasse existing between the parties with respect to wages, hours and working conditions of law enforcement personnel for the year 1973; that on December 8, 1972, the Commission, by John T. Coughlin, conducted an informal investigation on said petition, during which he attempted to mediate the issues existing between the parties; and that, however, the parties were unable to reach an accord with regard to said issues and remain at impasse with respect thereto.

5. That at no time material herein has the Petitioner filed any notice advising the Commission, as set forth either in Section 111.77(1)(c) or (2), Wisconsin Statutes, that an impasse exists.

6. That during the course of the aforementioned December 8, 1972 hearing the Municipal Employer claimed that the Commission lacked jurisdiction in the matter because of the failure of the Petitioner to file with the Commission the 30-day notice of its intention to make certain changes in the existing collective bargaining agreement as required in Section 111.77(1)(c) and (2) of MERA.

7. That the Municipal Employer on December 15, 1972, by letter, requested the Commission not to take any further action concerning the Petitioner's request for final and binding arbitration until the Commission rendered a decision concerning the effect or the failure of an organization to file notices as set forth in Section 111.77(1)(c) and (2) of MERA.

8. That on December 18, 1972, the Commission, by letter, informed the Municipal Employer that it intended to withhold formal action on the instant petition until such time as it rendered a decision concerning the application of Section 111.77(1)(c) and (2) of MERA.

9. That the parties have not established any mutually agreed upon procedures for the final resolution of disputes arising in collective bargaining, and further, the parties have not mutually agreed that the arbitration should not be limited to the last and final offers of each of the parties.

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

CONCLUSIONS OF LAW

1. That the notice requirements set forth in Section 111.77(1)(c) and (2), of MERA and in rules of the Commission, more specifically, ERB 30.03(2) and (4), are directory rather than mandatory, and the failure of the Petitioner to file the 30-day notice to the Commission as required in Section 111.77(1)(c) or (2) of MERA does not operate to deprive the Wisconsin Employment Relations Commission of its jurisdiction to initiate compulsory final and binding arbitration between the Petitioner and Municipal Employer herein to resolve the impasse involved in their collective bargaining for wages, hours and working conditions for the year 1973 covering law enforcement personnel in the employ of the Municipal Employer.

2. That an impasse, within the meaning of Section 111.77(3), of MERA, exists between Cedarburg Law Enforcement Association and the City of Cedarburg with respect to negotiations leading toward a collective bargaining agreement for the year 1973 covering the conditions of employment for law enforcement personnel employed at the City of Cedarburg.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes the following

CERTIFICATION

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of compulsory final and binding arbitration as required by Section 111.77 of MERA with respect to negotiations between

Cedarburg Law Enforcement Association and the City of Cedarburg on issues of wages and other conditions of employment of law enforcement personnel employed by the City of Cedarburg, have been met.

NOW, THEREFORE, it is

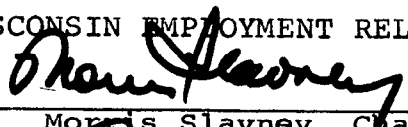
ORDERED

1. That compulsory final and binding final offer arbitration be, and the same hereby is, initiated for the purpose of issuing a final and binding award to resolve the impasse existing between the Cedarburg Law Enforcement Association and the City of Cedarburg.
2. That Cedarburg Law Enforcement Association file, in written form, its final offer as of December 7, 1972, on the issues remaining in said negotiations with the City of Cedarburg, with the Wisconsin Employment Relations Commission on or before February 23, 1973 and at the same time serve a copy thereof on the City of Cedarburg.
3. That the City of Cedarburg file, in written form, its final offer as of December 7, 1972, on the issues remaining in said negotiations with the Cedarburg Law Enforcement Association, with the Wisconsin Employment Relations Commission on or before February 23, 1973 and at the same time serve a copy thereof on the Cedarburg Law Enforcement Association.
4. That the parties each select a single arbitrator, or a board of arbitration, within ten (10) days after the issuance of this Order in a manner mutually agreed upon by the parties, to resolve said impasse; and that the parties notify the Commission within fifteen (15) days of the issuance of this Order as to whether they have selected an arbitrator or a board of arbitration, as the case may be.
5. That, if the parties select one or more arbitrators, said parties should then notify the Commission as to the identity of said arbitrator or arbitrators in order that the Commission may issue an order officially appointing said individual or individuals as the arbitrator or board of arbitration to conduct a compulsory arbitration proceeding and make a final and binding resolution of the dispute involved.
6. That, if the parties have not selected an arbitrator or board of arbitration, the Commission shall then order each party to select one arbitrator, and if these two arbitrators cannot in (5) days select a neutral arbitrator, the parties shall notify the Commission of same within eight (8) days of the issuance of the supplemental order; that thereupon the Commission shall submit a panel of five (5) neutral arbitrators, from which the parties shall, within three (3) days of the receipt thereof, alternately strike four of the members of said panel; that thereupon the parties or either of them, shall notify the Commission in writing as to the neutral arbitrator so selected, and the Commission shall then issue an order appointing said neutral arbitrator as chairman of the board of arbitration, or as the sole arbitrator if the parties so desire, and at the same time, shall serve copies thereof on the parties and the neutral arbitrator, and also at the same time serve a copy of the certification of the results of the investigation upon said neutral arbitrator.

Given under our hands and seal at the
City of Madison, Wisconsin, this 15th
day of February, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner

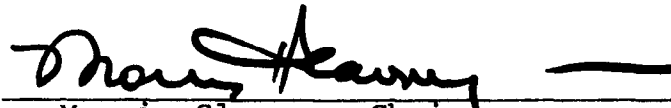
MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW, CERTIFICATION OF
RESULTS OF INVESTIGATION AND ORDER REQUIRING ARBITRATION

At the investigation conducted in the instant matter, the Municipal Employer took the position that arbitration should not be ordered because the Union has failed to file the 30 day notice provided at Section 111.77 of the Wisconsin Statutes. Determination of this issue has been withheld pending the Commission's decision in City of Eau Claire (Dec. No. 11573). That decision issued on January 31, 1973 and this Order is in accordance therewith.

Dated at Madison, Wisconsin, this 15th day of February, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner