

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION


Nos. 12707-B
12708-B

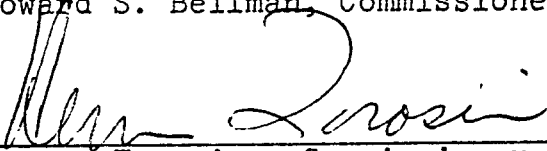
IT IS FURTHER ORDERED that unless the Respondents notify the Commission, in writing, by January 19, 1976, that the fines levied against the Complainants have been extinguished and further that the Complainants have been offered full and complete membership in American Federation of Teachers Local Union 1714, and further, that the notice required to be posted in the Examiner's Order have been so posted, the Commission will immediately institute enforcement proceedings in the appropriate Circuit Court.

Given under our hands and seal at the
City of Madison, Wisconsin, this 7th
day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Howard S. Bellman, Commissioner


Herman Torosian, Commissioner

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

The Facts:

There were no exceptions with respect to the Findings of Fact. A synopsis thereof discloses that the two Complainants refused to participate in a strike engaged in by the membership of the Union, which strike was prohibited by Section 111.70(4)(1) of the Municipal Employment Relations Act. Thereafter the Union assessed the fine of \$100 per Complainant and expelled them from membership for failure to participate in such unlawful activity.

The Examiner found the action by the Union and its President to constitute prohibited interference with the rights of the Complainants to refrain from concerted activity. To remedy such prohibited practice the Examiner ordered the Union to reinstate the Complainants to membership and to advise them that the Complainants were not obligated to pay the fine. Furthermore, the Order did not require the Complainants to pay any dues for the period during which they were expelled from membership. The Examiner further ordered the Union to post notices with regard to the matter and to notify the Commission as to compliance.

The Petition for Review:

In the petition for review the Respondents took exception to the Examiner's Conclusions of Law and Order, basically on the argument that the Union has a right to prescribe its own rules with respect to acquisition or retention of membership.

Discussion:

The Respondents would have the Commission overlook the fact that the action taken by the Union, with regard to the fine and expulsion, resulted from the refusal of the Complainants to engage in an unlawful strike. The Commission is charged with carrying out the public policy expressed in the Municipal Employment Relations Act. There is, therefore, no justification for permitting the public policy of the Act to be circumvented through the imposition of "disciplinary" action against an employe for having refused to engage in conduct declared to be unlawful by the Act.

We recognize the principle that Unions generally have a right to prescribe rules with respect to the acquisition and retention of membership. However, the Commission concludes that, in the public interest, it will not permit the constitution and bylaws of a labor organization to threaten members with recrimination, or to actually recriminate, against its members for refusing to engage in a strike which is specifically declared unlawful by MERA. We, therefore, affirm the decision of the Examiner in its entirety.

Dated at Madison, Wisconsin, this 7th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney
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Howard S. Bellman
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