

STATE OF WISCONSIN

CIRCUIT COURT

COUNTY

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WISCONSIN EMPLOYMENT RELATIONS  
COMMISSION,

Petitioner,

-vs-

MEMORANDUM OPINION

JOINT SCHOOL DISTRICT #1, CITY  
OF RIVER FALLS, et al. and  
PAUL W. PROESCHOLDT,

Decision No. 12754-B

Respondent.

\* \* \* \* \*

This is an action brought by the Wisconsin Employment Relations Commission (WERC) under Wisconsin Statutes §111.07(7) to enforce an order of the WERC. The initial Complaint was brought by ten regular part-time teachers and the River Falls Education Association. The complainants alleged, in a Complaint filed with the WERC, that the School Board and its Superintendent of Schools, Paul W. Proescholdt, had committed unfair labor practices which are prohibited under Wisconsin Statute §111.70(3)(1) of the Wisconsin Municipal Employment Relations Act.

An examiner was appointed to conduct a hearing on the Complaint, and detailed testimony was taken and transcribed. The examiner made detailed findings of fact and conclusions of law in which he found that the School Board and its Superintendent had committed unfair labor practices. The School Board then petitioned the WERC to review the examiner's findings, conclusions and order. The commission (WERC), in a memorandum accompanying the order affirming the examiner's findings of fact and conclusions of law and order, said:

"Had the commission conducted the hearing, and issued the initial decision herein, we may not have characterized the motivations and conduct of the respondents in the said manner as examiner."

Be that as it may, the record supports the inferences drawn by the examiner, as well as his findings of fact, conclusions of law and resulting order.

There are two issues before the Court.

1. Are the findings of fact of the Wisconsin Employment Relations Commission supported by credible and competent evidence?
2. Is the order of the Wisconsin Employment Relations Commission reasonable and appropriate and supported by the finding?

The standard for this Court's review is found in Wisconsin Statutes §111.07(7) which states:

".....The findings of fact made by the commission, if supported by credible and competent evidence in the record, shall be conclusive."

Detailed testimony was taken in this matter for several days and the Court has studied the findings of fact and conclusions of law and order made by the commission and is satisfied that there is credible and competent evidence to support the findings of the commission.

The second issue before the Court is whether the commission's remedial orders effectuate the purposes of the municipal employment relations act. Section 111.70(2) of the Wisconsin Statutes provides in part:

"Rights of Municipal Employees. Municipal employees shall have the right of self-organization, and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection....."

Section 111.70(3)(1) of the Wisconsin Statutes make it a prohibited practice for a municipal employer "to interfere with, restrain or coerce municipal employees in the exercise of their rights guaranteed in (111.70)(2)."

Section 111.70(3)(a) of the Wisconsin Statutes make it a prohibited practice for a municipal employer:

"To encourage or discourage a membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment; but the prohibition shall not apply to a fair share agreement."

The commission found that the School District committed prohibited practices by violating the foregoing statutory provisions. In addition to the commission ordering the School District to cease and desist said prohibited practices, the order of the commission detailed affirmative action with respect to each regular part-time teacher. Although the remedial order is within the authority of the WERC, their attorney has no objection to honoring the request of the district to review its order as to the individuals involved as to their employment following the hearing, and this matter is remanded to the commission for that purpose only. Inasmuch as this matter has been delayed through the appeal, it is the request of this Court that such review be accomplished as soon as possible.

Dated this the 20th day of September, 1977.

BY THE COURT:

John G. Bartholomew /s/

John G. Bartholomew  
Circuit Judge