

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

HOTEL & RESTAURANT EMPLOYEES & BARTENDERS UNION LOCAL 590, AFL-CIO,	:	
	:	
Complainant,	:	Case I
	:	No. 17985 Ce-1543
vs.	:	Decision No. 12772-A
	:	
AUTUMN HOUSE, INC.,	:	
	:	
Respondent.	:	
	:	

Appearances:

Mr. Allan Graskamp, International Representative, Hotel & Restaurant Employees & Bartenders International Union, for the Union.
Mr. Wayne L. Arihood, Manager, Autumn House, for the Company.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

A complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission in the above entitled matter, and the Commission having appointed Herman Torosian, a member of its staff, to act as an Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.06(5) of the Wisconsin Employment Peace Act, and hearing on said complaint having been held in Fond du Lac, Wisconsin, on July 23, 1974, before the Examiner and the Examiner having considered the evidence and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Hotel & Restaurant Employees & Bartenders Union Local 590, AFL-CIO, hereinafter referred to as the Complainant, is a labor organization having its offices at 500 East 10th Street, Fond du Lac, Wisconsin.
2. That Autumn House, Inc., hereinafter referred to as the Respondent, is an Employer engaged in the operation of a residential hotel for the elderly with offices at One North Main Street, Fond du Lac, Wisconsin.
3. That the Complainant and Respondent are parties to a collective bargaining agreement, effective February 1, 1974 through January 31, 1975, covering the wages, hours and working conditions of certain employees employed by the Respondent; that said agreement succeeds the parties' previous one-year agreement which expired January 31, 1974.
4. That the parties' current collective bargaining agreement, as did the parties' previous 1973 agreement, contains, in pertinent part, the following provision material herein:

"ARTCLE (sic) X

. . .

All employees covered by this agreement who have been in the employ of the employer six (6) months or longer shall be covered by group insurance through the Milwaukee

Hotel Industry Health and Welfare Plan which shall provide for the following as minimum to the Employees only:

Life Insurance	\$1, 250.00
Weekly Loss of Time Benefits - 10 Weeks Max.	20.00
Beginning 8th Day Accident: 8th Day sickness Maternity is included	
Hospital Benefits - 31 Day Max.	
Room and Board, Daily Rate	40.00
Miscellaneous Expense	255.00
and 75 % of the Next \$2,000.00	
Maternity Benefits	100.00
Blanket Hospital	-
Surgical Benefit, Msc per Schedule	
Obstetrical Benefits are included	100.00
Medical Benefits	
In Hospital, Daily Allowance	5.00
31 Day Max. beginning 1st day of Confinement	
Diagnostic Lab and X-Ray	75.00

It is agreed that all costs incidental and inclusive of the cost of any of the above be born (sic) by the Employer at no cost to the employees. It is further agreed by the Employer that such Life Insurance shall provide that when an employee leaves the service of the Employer (sic) he shall be permitted to convert such group life insurance policy to his own requirements, in accordance with time limitations and rules and regulations of the insurance company, and the Employer further agrees that such provision shall be contained in such policy."

5. That since April 1, 1974, Respondent has failed to make contributions on behalf of its employes covered by the collective bargaining agreement with Complainant to the Milwaukee Hotel Industry Health and Welfare Plan.

6. That for the period prior to April 1, 1974, Respondent has failed to make contributions on behalf of employes Wiese, Ramirez and Pittl, in the amounts of \$130.53, \$95.43 and \$95.43 respectively.

CONCLUSION OF LAW

That Autumn House, in violating the terms of the February 1, 1973 through January 31, 1974 collective bargaining agreement, and the February 1, 1974 to January 31, 1975 collective bargaining agreement existing between it and Hotel & Restaurant Employees & Bartenders Union Local 590, AFL-CIO, by failing to make payments to the Milwaukee Hotel Industry Health and Welfare Plan, has committed and is committing an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Employment Peace Act.

Upon the basis of the above Findings of Fact and Conclusion of Law, it is

ORDERED

That, Autumn House, Inc., its officials and agents, shall immediately:

1. Cease and desist from violating Article X of the collective bargaining agreement in existence between Autumn House, Inc., and Hotel & Restaurant Employees & Bartenders Union Local 590, AFL-CIO, by failing to make payments to the Milwaukee Hotel Industry Health and Welfare Plan.

2. Take the following affirmative action which the Examiner finds will effectuate the policies of the Act:

- (a) Immediately pay to the Milwaukee Hotel Industry Health and Welfare Plan all amounts due and owing up to the date of this Order, including the sum of \$130.53 due and owing on behalf of employe Wiese for the period prior to April 1, 1974; the sum of \$95.43 due and owing on behalf of employe Ramirez for the period prior to April 1, 1974; and the sum of \$95.43 due and owing on behalf of employe Pittl for the period prior to April 1, 1974.
- (b) Notify the Wisconsin Employment Relations Commission, in writing, within twenty (20) days from the receipt of a copy of this Order as to what action it has taken to comply herewith.

Dated at Madison, Wisconsin, this 9th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Herman Torosian, Examiner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT
CONCLUSION OF LAW AND ORDER

During the course of the hearing held on July 23, 1974, Complainant was permitted to amend its complaint to allege that the Respondent since April 1, 1974, instead of December 1, 1973, as originally alleged, has violated Article X of the parties' collective bargaining agreement by its failure to make payments to the Milwaukee Hotel Industry Health and Welfare Plan on behalf of its employes; to allege that Respondent for the period prior to April 1, 1974, failed to make premium payments on behalf of employes Wiese, Ramirez, and Pittl in the amounts of \$130.53, \$95.43, and \$95.43 respectively; and to specifically allege that Respondent, by failing to pay said premiums in violation of the collective bargaining agreement, violated Section 111.06(1)(f) of the Wisconsin Employment Peace Act.

The uncontroverted testimony of Allan Graskamp, International Representative, Hotel & Restaurant Employees & Bartenders International Union, who spoke to a representative of the Milwaukee Hotel Industry Health and Welfare Plan, shortly before the hearing, establishes that Respondent has failed to make any payments to said Plan on behalf of its employes since April 1, 1974, and, further, that Respondent for the period prior to April 1, 1974 failed to make payments due and owing to the Plan in the amounts of \$130.53 for employe Wiese, \$95.43 for employe Ramirez, and \$95.43 for employe Pittl.

Based on the above, the Examiner finds that the Respondent, by refusing to make payments as required by the parties' collective bargaining agreement, has violated Section 111.06(1)(f) of the Wisconsin Employment Peace Act.

Dated at Madison, Wisconsin, this ^{9th} day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Herman Torosian, Examiner