

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

FIRE FIGHTERS LOCAL 695,	:	
	:	
Complainant,	:	Case XXIV
	:	No. 18533 MP-409
vs.	:	Decision No. 13196-A
	:	
CITY OF MENASHA,	:	
	:	
Respondent.	:	
	:	

Appearances:

Mr. Ed Durkin, Vice President, International Association of Fire Fighters, on behalf of the Complainant.
Mulcahy & Wherry, Attorneys at Law, by Mr. John F. Maloney, on behalf of the Municipal Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Fire Fighters Local 695 having filed a complaint of prohibited practices with the Wisconsin Employment Relations Commission alleging that the City of Menasha, Wisconsin has committed certain prohibited practices, within the meaning of Section 111.70 Wis. Stats.; and the Commission, having appointed Robert M. McCormick, a member of the Commission's staff, to act as Examiner and make and issue Findings of Fact, Conclusions of Law and Order as provided in Sections 111.70(4)(a) and 111.07(5) Wis. Stats., and hearing on said complaint having been held before the Examiner on March 10, 1975 at Appleton, Wisconsin in the course of which the Complainant, without objection, was permitted to amend its complaint, and set forth on the record further allegations of conduct which it claims constitute violations of Section 111.70(3)(a)1 Wis. Stats., and the parties having filed briefs by June 2, 1975; and the examiner having considered the evidence and briefs and being fully advised in the premises makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That Fire Fighters Local 695, hereinafter referred to as the Complainant, is a labor organization and has its mailing address as that of its principal representative, Mr. Ed. Durkin, 5606 Old Middleton Road, Madison, Wisconsin 53705.
2. That the City of Menasha, hereinafter referred to as the Respondent, is a municipal employer which operates a fire department, under the direction and control of Chief Skalmoski, hereinafter the Chief.
3. That at all times material herein Complainant has been the voluntarily recognized exclusive bargaining representative of the fire fighters employed in the Respondent's fire department, and that Complainant and Respondent are parties to a collective bargaining agreement covering matters of wages, hours and conditions of employment for such employes.

4. That the 1974 agreement was executed by the parties after a decision by an arbitrator in a final and binding arbitration pursuant to Section 111.77(3), Stats., wherein the Union's last best offer was adopted; that said 1974 agreement, unlike the 1973 contract, first contained a grievance-arbitration clause; that the parties for all time material herein, followed a practice to facilitate the selection and taking of earned vacations pursuant to which the Chief caused a vacation chart to be posted in January 1974 ^{1/} at Station No. 2, indicating the employes' starting dates and the vacations available for each employe; that each employe was expected to sign his choice of vacation weeks by a set deadline, or lose his pick to a junior employe with the attending condition that an employe could only select a two-week period in the summer months; and said chart contained a summary note, directing that Dale Ramich could only designate his selection of a third week of vacation for a week following his anniversary date namely November 17th, when he would earn a third week; that in March or April, after Ramich had requested of the Chief permission to sign for the last week of December, the Chief "red-lined" the last partial week of the year, December 29 through January 4, 1975, as unavailable for vacation selections.

5. That on May 14 Complainant filed a grievance challenging the Chief's red-line of said last week of December and claimed that Respondent effectively prevented Ramich from taking a vacation between November 17 and the end of the year because of the fact that other employes' prior vacation - selections used the weeks of Thanksgiving and Christmas; that on May 17, Respondent, in a letter signed by the Chief, first denied the grievance and thereafter on June 5th, in a third step answer, Respondent denied Complainant's grievance and stated therein in material part, "you will note in your expired contract that there are no provisions spelled out for carrying over a vacation from one year to the next."

6. That at a time coincident with the process of Ramich's grievance in May and June, the parties were involved in final and binding arbitration to resolve an impasse over the terms for a 1974 collective bargaining agreement to succeed the agreement which had expired on December 31, 1973; that the 1973 agreement did not provide for grievance arbitration.

7. That thereafter Complainant took no further action on Ramich's grievance until October 29, at which time following the parties implementation of a 1974 collective agreement pursuant to the final and binding award of an arbitrator, the Complainant requested that Respondent proceed to arbitration of said grievance under the newly adopted arbitration provision of the 1974 agreement; that Respondent resisted arbitration of said grievance and on November 15 refused to accede to the appointment of an impartial arbitrator to decide the Ramich grievance; that the Complainant made no further effort to compel arbitration pursuant to the Municipal Employment Relations Act.

8. That as of November 20 Ramich had made no written entry on the vacation schedule, selecting his third week of vacation for taking in calendar year 1974; that on November 21, the Chief sent a letter to Ramich, with a copy to Mayor Wiecki of Menasha, which reads as follows:

"The purpose of this letter is to set forth the vacation periods which are available to you for the calendar [sic] year 1974. Since you did not become eligible for your third week vacation until

^{1/} Unless otherwise noted, all dates hereinafter refer to 1976.

November 17, 1974, the vacation weeks available to you are necessarily limited by the time remaining in 1974, and also by the fact that deer season, Thanksgiving, and Christmas fall during the available time period.

Presently the following weeks are available to you.

December 1 through December 7, 1974.

December 8 through December 14, 1974.

December 15 through December 21, 1974.

As you are aware, the week of December 22 through December 28, 1974 was also available for you when Gerald Osmuss who originally signed on his first pick, left the Department, his resignation submitted to me on April 26, 1974.

On the deadline date for Lt. Dutter, April 10, 1974, which was his deadline date for his 3rd pick, and by your seniority you had the right to choose where Osmuss originally signed.

I had informed the President of the Union in my office, that men eligible for vacation could pick when the men with three, four and five weeks had their time selected, but that they had to select the vacation after the anniversary date. Since each station has its own vacation chart, you had every right on April 10, 1974, to pick your third week. Instead of selecting December 22 through 28 if you wanted the holidays, you choose to let a man of less seniority, James Arndt, to take this week after Osmuss left this dept.

Since the present labor agreement between the City of Menasha and Menasha Fire Fighters Local 695 does not provide for the carry over of any vacation time into a succeeding calendar year, you will be expected to work your scheduled shifts during the first week of January 1975, or, you will be considered to have taken unauthorized leave.

Please let me know of your vacation choice no later than November 29, 1974.

I would like to call your attention to the fact that, your choice of this third week vacation earned by you, has caused more havoc than of the rest of the firefighters added together in my 24 years as a firefighter in this department, and in the future, I hope that this can be avoided."

9. That on or near November 21, Ramich signed the red-lined week, the last week of December, as his third week; that on November 21 the Captain at Station No. 2 advised the Chief of Ramich's selection of said last week; that Ramich's selection of vacation time for December 29 through January 4, 1975, if granted, would have resulted in the grant of two vacation days in lieu of two regularly scheduled work days otherwise falling in January 1975.

10. That Ramich sent a reply by certified mail dated November 25, which was never picked up by the Chief, which reads as follows:

"Dear Chief Skalmoski:

Based upon the advice of my International Representative I am selecting my (3rd) third week of vacation commencing Sunday December 29, 1974 as per past practice on the Menasha Fire Department. I hope this meets with your approval."

11. That on November 27, based upon the information received from the Captain, the Chief summoned Ramich to his office and ordered him to

select one of the first three weeks in December as his third week of vacation; that the Chief further advised Ramich that if he took vacation time in the red-lined week he would be subject to disciplinary time off without pay; that thereafter Ramich signed and took one of the weeks in December other than the last partial week of 1974.

12. That the practice of the parties from at least 1969 and for all time material herein with respect to employes selecting and taking a vacation week at the end of a calendar year, reflected that employes secured approval from the Chief to select same in those cases when their otherwise scheduled work days would over-lap into the following calendar year as paid vacation time; that the only exceptions to such practice since 1970 involved employes Wunderlich and Osmuss, who selected and did take vacation time, which reflected the overlap of only one scheduled work day as vacation time into the new calendar year.

13. That the Respondent applied such practice without having made any unilateral change in same by the Chief's act of red-lining the last week of December 1974 as unavailable for vacation-selection and by directing Ramich to select one of the first three weeks of December as his third week of vacation.

14. That the Respondent from at least 1970 had a practice involving its promotional policy to fill vacancies for Lieutenant positions of conducting two written examinations for participating eligible candidates, one of which tests was designated an examination on leadership, which in earlier years was prepared by the State Bureau of Personnel and later devised by the Fox Valley Technical Institute; that a second written test was also given by Fire Department Supervisors to candidates which covered requisite knowledge of the City and departmental functions; that in April of 1973 and January 1974, two fire fighters - first class were so promoted after Respondent so tested the candidates.

15. That on November 21, Chief Skalmoski caused to be posted a notice for a written test for vacant positions at both the Lieutenant and Motor Pump Operator (MPO) levels which were scheduled for November 27; that said notice also indicated that a performance test on department vehicles would also be administered as had been the practice under the Chief's predecessor, prior to 1974; that in the first leadership test Ramich placed first among five (MPO) candidates testing for the three Lieutenant positions, with a score of 66%; that Ramich's score was known to the Chief, though the array of scores was never published by Respondent's supervisory personnel until the results of a second written test were available to compute a composite written score.

16. That following a second notice on January 3, 1975, the Respondent's deputy chief conducted a second written examination, designated a "Test for Position of Motor Pump Operator" which was administered to those MPO incumbents who had taken the first test for Lieutenant vacancies as well as to fire fighter candidates for MPO; that Ramich scored a 55% on the second examination, which tested requisite knowledge in the areas of departmental operations, equipment and city geography consistent with the 1973-74 policy on administering a second department-level exam; that the deputy chief prepared, administered and corrected the tests of both written examinations.

17. That Ramich ranked fourth in the array of five eligible candidates for the Lieutenant positions and failed to win promotion to any of the three vacancies; that Ramich's failure to secure promotion over the next highest selectee, Thomas Brunette, was determined by Ramich's poor score in the second exam which lowered his composite score, which included credits for seniority, performance and shift officer's

evaluation; that an MPO, more senior than Ramich, scored fifth in rank and also failed to win a promotion.

18. That on December 2, some five days after the Chief's meeting with Ramich and the union steward over the vacation selection grievance, the Chief appeared before the City Council which was considering certain budget matters; that the Chief stated to the Council members that, "the time has come for the city fathers to tell me how the department is run"; that the Chief further stated, "the time has come to make a check of the cost of volunteers"; that the Chief made no threats with respect to the tenure or compliment of the full-time employes of Respondent who were members of Complainant-Union.

On the basis of the foregoing Findings of Fact, the examiner makes and files the following

CONCLUSIONS OF LAW

1. That Respondent, by the acts of its Chief Skalmoski over the period from April 1 to November 27, 1974, of "red-lining" the last week of December on the vacation schedule and denying Ramich his selection of a third week of vacation, which otherwise would have covered scheduled work days as vacation time for Ramich which would have overlapped into calendar year 1975, was an act consistent with the then existing practice of the parties governing vacation selections, and therefore, the Respondent, has not committed any violation of Section 111.70(3)(a)4, Stats.

2. That the Complainant - Union has failed to prove by a clear and satisfactory preponderance of the evidence that the Respondent engaged in coercive conduct violative of Section 111.70(3)(a)1, Stats., by the acts of its Chief on November 21 and 27, 1974, of warning Dale Ramich that he would suffer discipline if he should take an unauthorized leave in the last week of December 1974, contrary to the Chief's directive as to available vacation-time selections, and by the Chief's written statement in a letter to Ramich, to the effect that Ramich's grievance over vacation selection had "caused more havoc than all of the rest of the firefighters in the department over a twenty-four year period", and that therefore, Respondent has not committed any violation of Section 111.70(3)(a)1, Stats.

3. That Respondent, by the conduct of its Chief and deputy chief over the period from November 21, 1974 to January 10, 1975 of posting a notice concerning a promotional test for Lieutenant and then administering a written test on leadership developed by a Voc-Tech Institute, followed thereafter by a second written examination conducted by the deputy chief relating to knowledge of certain operational tasks of the department and city geography the results of which, in the form of composite test scores, caused the Respondent not to promote Ramich and other candidates, did not thereby commit, and is not committing, any violation of Section 111.70(3)(a)1, Stats.

4. That the Respondent, by the acts of its Chief on December 2, 1974 while addressing a city council meeting on budget, by proposing the possible use of a volunteer fire force, at a time proximate to the denial of Complainant's vacation grievance, did not thereby commit, and is not committing any violation of Section 111.70(3)(a)1, Stats.

On the basis of the foregoing Findings of Fact and Conclusions of Law, the Examiner makes and files the following

ORDER

That the complaint filed in the instant matter be, and the same hereby is, dismissed.

Dated at Madison, Wisconsin this 17th day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Robert M. McCormick
Robert M. McCormick, Examiner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

PLEADINGS AND PROCEDURE:

The Complainant filed a complaint of prohibited practices alleging inter alia that the chief of the Respondent's Fire Department, Chief Skalmoski, made certain unilateral changes without resort to collective bargaining regarding vacation picks, which prevented a fireman from selecting the last week of the calendar year 1974, all in violation of Section 111.70(3)(a)4 of the Municipal Employment Relations Act (MERA). The Complainant further alleged that Respondent had committed an independent violation of MERA when the Chief, "on November 21, 1974, severely criticized Fire Fighter Dale Ramich for attempting to pursue his request of the last week in December as previously allowed and such coercion (violates) Section 111.70(3)(a)1." The Complainant requests a cease and desist order from the Commission directing that Respondent not change working conditions without bargaining such changes; and further seeks an order directing Respondent's agent not to harass Complainant's members who may attempt to redress their grievances through legal means.

The Respondent in answer, denies having committed any violations of the statutes set forth above, and denies that it effectuated any unilateral change in the procedures for vacation selections.

In the course of hearing, after Complainant presented its case-in-chief, the examiner granted Respondent's motion to dismiss the allegations in the complaint that Respondent committed a violation of Section 111.70(3)(a)4, Stats., Respondent having based its motion on Complainant's failure to make out a prima facie case. The disposition of said motion shall be covered in discussion to follow.

Following said motion and ruling, the Complainant was permitted to amend paragraph #7 of the complaint to include certain conduct of the Chief, allegedly occurring between November 21 and 27th as part of the alleged violative coercion. Prior to the presentation of Respondent's case-in-chief, the examiner sought clarification from Complainant as to whether it was seeking to prove a violation of Section 111.70(3)(a)3, Stats. in view of its efforts to develop testimony to support a claim that Ramich was discriminated against in a testing process leading to promotion of other employes to the position of Lieutenant. Complainant made clear that it did not wish to further amend its pleadings to prove a violation of Section 111.70(3)(a)3.

Certain evidence was received at hearing without objection going to the general "coercion" allegation contained in paragraph #7 of Complainant's complaint. In view of the further introduction of evidence including receipt of a post-hearing exhibit, without objection, pertaining in part to the Chief's conduct in the promotional testing process, which occurred from November 21, 1974 to January 10, 1975, the examiner permitted further amendment of the complaint for the purpose of determining whether the Respondent engaged in coercive conduct by its activities through said date.

Near close of hearing, the examiner permitted Complainant to further amend its pleadings to add a new allegation of violative "interference and coercion" which was stated on the record as follows:

"That on November 27, 1974, Local 695 filed a complaint before the Wisconsin Employment Relations Commission alleging violations

of 111.70(3)(a)(4) and 111.70(3)(a)(1) by the City of Menasha; that subsequent to the filing of the complaint the Fire Chief on December 2, 1974, appeared before the Common Council calling for an immediate study to supplant the Fire Department with volunteers rather than hiring new men, stating as a reason that he, as Fire Chief was becoming weary of Union demands and new laws; and this is a violation of 111.70(3)(a)(1);" 2/

FACTS:

The Respondent for at least six years employed a vacation selection policy to facilitate the taking of vacations which its firemen were entitled to receive under the terms of the labor agreement. Employees were permitted to select vacation weeks by seniority and rank from a schedule which contained the names of unit employes and corresponding cut off dates for each employe to enter his selection. Employees were permitted to select only two weeks in the summer months. An employe entitled to a third week of vacation for the first time in a given calendar year could only take his vacation after such anniversary date, though he could make his third week selection in the late winter or early spring months after the other employes selections had been completed.

There is a dispute as to whether the practice of the parties permitted an employe, as a matter of right, to select and take the last week of the calendar year as vacation, when the prospective workdays of his regular schedule would overlap into the following calendar year as part of a scheduled vacation. The parties agree, aside from the question of the end of year potential overlap, that the general policy requires the taking of earned vacation by the end of a calendar year. Though Complainant's correspondence and the testimony of its local president indicate that employes are to seek "approval by the Chief" for end-of-year selections for vacation, there is an issue of fact as to whether the Chief's "red-lining" a week for selection is a species of such "approval". Such conflicts are covered in discussion to follow.

There is no substantial disagreement as to the events that followed the Chief's letter of November 21 except for the issue as to whether the Chief's application of the testing program from November 21, 1974 to January 10, 1975, represented a substantial departure from the program under his predecessor. The remaining evidence relating to Complainant's allegations of violative conduct involving the failure to promote Ramich to Lieutenant, the Chief's letter and statements of November 21st and 27th and the Chief's remarks before the Common Council on December 3, raise the legal questions as to whether such conduct constitutes intimidation and coercion within the meaning of Section 111.70(3)(a)1, Stats. The positions of the parties are set forth below under the sub-topics covering the three aforementioned events.

ANALYSIS AND CONCLUSIONS:

Alleged Unilateral Change in Vacation Selection Practice in the Chief's Denial of Ramich's Section.

The Complainant sought to prove the existence of a pre-1974 practice with regard to vacation selection which would reflect an open choice to employes to take the last week of the year as vacation. However, the clear preponderance of the evidence indicates that the Chief's denial of Ramich's selection was consistent with prior practice.

The uncontroverted evidence indicated that an employe had to make a request of the Chief to secure that last week of the calendar year, when his projected vacation days would overlap into the next calendar year. Ramich asked the Chief for approval to make the selection in early spring of 1974. The local president of Complainant even stated in his May 14th - grievance letter that in the past said week could be taken with the Chief's approval.

The evidence further indicates that the only exceptions since 1970, to the otherwise prevailing policy that vacations were not to be carried over to the next year, involved the Osmuss and Wunderlich vacations. In both cases the prior Chief granted approval for the carryover of one (1) scheduled work day for each employe into the next calendar year. In Ramich's case, two vacation days of his attempted selection, if granted, would have extended into 1975 as vacation days.

The record cannot possibly support the proposition that the Chief made a unilateral change in the vacation selection policy by denying Ramich's selection, and therefore the examiner has found no refusal to bargain in that regard.

The Question of Whether the Chief's Criticism of Ramich's Attempted Vacation Selection Constitutes Coercion Or Interference Under 111.70(3)(a)1

The Complainant has the burden of proving by a clear and satisfactory preponderance of the evidence ^{3/} that Respondent engaged in coercive conduct as set forth in the complaint as amended on the record. Complainant did not choose to allege a "discrimination" violation within the meaning of Section 111.70(3)(a)3, Stats. The examiner must consider whether the Chief's conduct in rebuking Ramich, passing over him in a promotion, and speaking before the Council, can reasonably be said to have the tendency to coerce Ramich or other fire fighters in the enjoyment of their rights as defined in Section 111.70(2), Stats.

The examiner must consider the Chief's conduct in the total context of the origins of Ramich's grievance, and with regard to the policy on vacation selections.

Ramich became aware in early spring of 1974 that he could register his selection for a third week after the other picks were completed; and that his third week had to come after his anniversary date. After he made request of the Chief as to the availability of the last week of December, the Chief red-lined the last week. Complainant filed a grievance in May, which was rejected through the third step. The grievance rested in "limbo" until the Complainant again pressed it in October, after securing a labor contract which provided for arbitration of grievances. The Respondent then further rejected arbitration of said grievance. The record discloses that Ramich was aware in early November that supervision was not about to grant his proposed selection for the last week of the year.

It was one thing for Complainant and Ramich to insist that they were correct in opposing the red-line of said last week in the course of the rather belatedly pressed grievance. However, it was entirely another situation for Ramich, after November 21, to make the actual selection of the prohibited week on the vacation chart, which act was called to the Chief's attention. Ramich's selection had all the "earmarks" of a planned taking of vacation week irrespective of the Chief's repeatedly conveyed position on the vacation policy.

^{3/} See Section 111.07(3), Stats.

If the Chief was wrong in said application, the Complainant could have attempted to enforce arbitration.

It was only after the Chief's verbal reprimand of November 27th, that Ramich actually selected one of the earlier weeks in December. Said reprimand merely involved a warning by the Chief that if Ramich in fact utilized the last week of December as vacation, he would be treated as if on unauthorized leave.

The Complainant argues that the letter was damaging to Ramich and tends to deter others from pressing grievances. The Chief's letter to Ramich, a copy of which was sent to the Mayor, reads in material part,

"I would like to call your attention to the fact that, your choice of this third week vacation earned by you, has caused more havoc than of the rest of the firefighters added together in my 24 years as a firefighter in this department, and in the future, I hope that this can be avoided."

It was sent before Ramich physically withdrew his abortive selection on the vacation chart.

If the letter stood alone, especially considering the fact that the Mayor received a copy, the examiner might have a basis for concluding that the Chief committed a technical "interference" in suggesting that a fire fighter grievant creates "havoc" by filing and pressing a grievance. However, this examiner can find no violative coercion in the Chief's aforementioned written statement, when said letter is viewed in the entire context of Ramich's continued insistence upon making a prohibited vacation selection rather than to have initially, in November, followed the "obey now - grieve later" axiom.

The Chief's verbal warning of November 27, to Ramich, was similarly not coercive, but easily explained as the Chief's response to the then known intent of Ramich to take the last week of December as vacation.

Ramich's Failure to Secure Promotion to Lieutenant.

The Findings of Fact, paragraphs #14 through #17 set forth the uncontroverted facts with regard to the number of written exams given in the past to candidates for promotion to Lieutenant. The Complainant urges that the first notice of the promotional exam referred to a written test and that over a month after Ramich had done well on the leadership test, the Chief changed the guidelines. Complainant further argues that at a time proximate to Ramich's pressing the vacation grievance, the Chief arranged for an elaborate test for (MPO) after he became aware that Ramich was third following the leadership and performance tests.

The record discloses that the Chief did not prepare, administer or correct the tests. The Complainant would have the examiner find from the references to the singular on the November 21 notice, namely, "a written test", that the second written test was contrived to eliminate Ramich from contention.

Complainant did not plead that the Respondent denied Ramich a promotion because of his union activity and efforts to police the labor agreement, within the meaning of Section 111.70(3)(a)3, Stats. If the examiner is to find an "interference and coercion" violation from the method and timing of the examination process, the claimed manipulation by the Chief must clearly be found to have departed from the prior policy; and that it had a total chilling affect upon the future process of grievances.

The examiner discounts the testimony of the Chief with respect to his incredulous explanation, that the first notice adequately informed Ramich and others that there was to be two written exams. However, the Respondent does not have to prove an absence of violative conduct. The post-hearing exhibit, received without objection, clearly shows that two written tests have been given to fill previous vacancies for Lieutenant, namely, a leadership exam and a second one emphasizing departmental equipment and city geography. Others took the exam in addition to Ramich. There was no challenge to the scoring or contents by Complainant, save for the fact that a second exam was given. Ramich's own testimony at one point, indicates that he suffers in the belief that the "Chief has done things to him in eight years" that he could not elaborate upon at hearing. The examiner finds no interference or coercion from the content or application of the promotional examination and concludes that Ramich's deficient score vis a vis that of other candidates determined his fate.

The Chief's Remarks Before The Common Council in December 1974.

The Complainant introduced two newspaper clippings containing two quotations of the Chief, which he acknowledged making. The remainder of the articles characterized the Chief's interest in raising the specter of a volunteer fire-force as an apparent irritation over recently filed grievances. At one point in the cross-examination the Chief indicated that the news clips accurately described the proceedings. The record evidence further discloses however, that the Chief made only two statements, which are set forth in Findings of Fact, paragraph #18, supra. The Chief made no threats that the compliment of fire fighters would be affected by the possible utilization of volunteers. There was no evidence that the Chief cited the filing of grievances, or the militancy of the Complainant organization as the reason for his interest in exploring the use of volunteers. Complainant would rely upon, the timing of the Chief's late interest in suggesting volunteers as well as the newsman's conclusion as to the Chief's real purpose, as a basis for the examiner finding an interference violation.

The Examiner concludes that the record evidence does not support a finding that the Chief made any threats or engaged in any other coercive conduct by his declaration to the council in December 1974.

On the basis of the foregoing facts and discussion, the examiner has discussed the complaint in its entirety.

Dated at Madison, Wisconsin this 17th day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Robert M. McCormick
Robert M. McCormick, Examiner