

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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EARL JACOBS, LOCAL 171 and WISCONSIN  
STATE EMPLOYEES UNION, AFSCME, COUNCIL  
24, AFL-CIO,

Complainants,

vs.

STATE OF WISCONSIN, DEPARTMENT OF  
ADMINISTRATION and its EMPLOYMENT  
RELATIONS SECTION,

Respondent.  
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Case XLVI  
No. 18547 PP(S)-26  
Decision No. 13198-A

ORDER DENYING MOTION TO DISMISS

A complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission, herein Commission, by Earl Jacobs, Local 171, and Wisconsin State Employees Union, AFSCME, Council 24, AFL-CIO, herein Complainants, on December 5, 1974, where they alleged that the State of Wisconsin, Department of Administration and its Employment Relations Section, herein Respondent, had committed unfair labor practices within the meaning of the State Employment Labor Relations Act; and the Commission having appointed the undersigned as Examiner to make and issue Findings of Fact, Conclusions of Law and Order in this matter; and the Examiner having scheduled the matter for hearing; and Respondent thereafter having filed a Motion to Dismiss on December 16, 1974, <sup>1/</sup> and Complainants on December 30, 1974, having filed a response in opposition thereto; and the Examiner having considered said motion;

NOW, THEREFORE, it is

ORDERED

That the Motion to Dismiss in the above entitled matter be, and the same hereby is, denied.

Dated at Madison, Wisconsin, this 17th day of January, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Amedeo Greco  
Amedeo Greco, Examiner

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<sup>1/</sup> In its Motion to Dismiss, Respondent also requested an extension of time to file its answer, as well as a postponement of the hearing which was originally scheduled for December 31, 1974. Since those requests have been disposed of earlier, they are not discussed herein.

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO DISMISS

Respondent's Motion to Dismiss is predicated upon two primary grounds: one, that the Complainants have failed to state a cause of action, and two, that the parties have agreed to resolve the issues herein in a scheduled arbitration hearing.

Respondent's Motion to Dismiss at this time is hereby denied since the matters in issue may involve factual determinations which can best be resolved at a hearing, and because in any event, Complainants are entitled to a hearing by virtue of the fact that the matters herein constitute a contested case. 2/

Dated at Madison, Wisconsin this 17th day of January, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Amedeo Greco  
Amedeo Greco, Examiner