

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

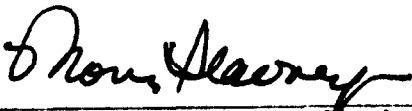
Respondent.


No. 13214-B

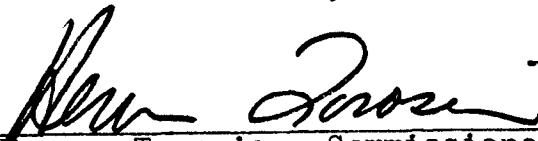
Memorandum, and, therefore, the Respondent, UOP Norplex Division of the Universal Oil Products Company, shall notify the Wisconsin Employment Relations Commission within ten (10) days of the receipt of a copy of this Order as to what steps it has taken to comply therewith.

Given under our hands and seal at the City of Madison, Wisconsin, this 13th 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

In his decision the Examiner concluded that the Employer violated the provisions of the collective bargaining agreement existing between it and the Union by refusing to proceed to arbitration on the discipline and/or discharge of four employees. The Employer filed a petition requesting the Commission to review the Examiner's decision. Such petition was accompanied by an affidavit executed by an officer of the Employer wherein facts were alleged to support the claim that the Employer was engaged in a business having an impact on interstate commerce, and that, therefore, the Commission has no jurisdiction 1/ in the matter. It is to be noted that said issue was not litigated during the hearing before the Examiner. However, the issue of the Commission's jurisdiction may be raised at any time. 2/

It is well established that a violation of a collective bargaining agreement constitutes an unfair labor practice under the Wisconsin Employment Peace Act and further that such activity is not regulated by the National Labor Relations Board, and, therefore, the Commission has jurisdiction to determine whether such a violation has occurred, although the Employer involved is otherwise subject to the jurisdiction of the National Labor Relations Board. 3/

Further, the jurisdiction of the Commission to determine whether a violation of a collective bargaining agreement constitutes an unfair labor practice under the Wisconsin Employment Peace Act is concurrent with that of the state and federal courts involving actions commenced under Section 301 of the National Labor Relations Act. 4/

Had the Respondent removed this proceeding to a court, pursuant to Section 301 of the National Labor Relations Act, the Commission would not have proceeded on the complaint filed herein. However, no such action was commenced in any court, and, therefore, the Commission has properly exercised its jurisdiction to determine the issues raised herein, and, in that regard, we affirm the Examiner's Findings of Fact, Conclusions of Law and Order, and we also adopt his Memorandum in support thereof.


Dated at Madison, Wisconsin, this 13th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

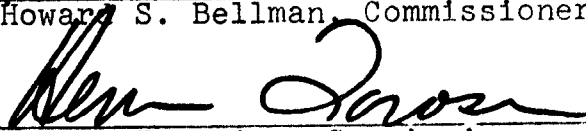
By



Morris Slavney, Chairman



Howard S. Bellman, Commissioner



Herman Torosian, Commissioner

- 1/ It is to be noted that the petition for review set forth no other objections to the Examiner's decision.
- 2/ Lucas Livestock and Implement Company, 3 Wis. (2d) 464, 4/68.
- 3/ Tecumseh Products Company, 23 Wis. (2d) 118, 3/64; American Motors Corporation, 32 Wis. (2d) 327, 10/66.
- 4/ Ibid.