

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN FEDERATION OF TEACHERS,
AFT, AFL-CIO

Requesting a Declaratory Ruling with
Respect to the Application of the
State Employment Labor Relations
Act

Case LIV
No. 18722 DR(S)-8
Decision No. 13267-A

Involving Employees in the Employ of
STATE OF WISCONSIN

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S.
Williamson, Jr., for the Petitioner.

Mr. Lionel L. Crowley, Attorney at Law, for the State Employer.

FINDINGS OF FACT, CONCLUSION OF LAW
AND DECLARATORY RULING

Wisconsin Federation of Teachers, AFT, AFL-CIO having, on December 31, 1974, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to issue a Declaratory Ruling to determine whether it would constitute a refusal to bargain in good faith, within the meaning of the State Employment Labor Relations Act, for the State Employer to limit negotiations between said organization and the State Employer to normal working hours unless the State Employer does not deduct pay from the state employees who are members of the Petitioner's bargaining committee during their participation in negotiations with the State Employer; and a hearing having been held on March 3, 1975 at Madison, Wisconsin before Chairman Morris Slavney; and the Commission having reviewed the record and briefs of counsel, and being fully advised in the premises makes and files the following Findings of Fact, Conclusion of Law and Declaratory Ruling.

FINDINGS OF FACT

1. That the Wisconsin Federation of Teachers, AFT, AFL-CIO, hereinafter WFT, is a labor organization having its principal offices at 2266 North Prospect Avenue, Milwaukee, Wisconsin 53202.

2. That the State of Wisconsin, hereinafter State, is an employer, having its principal offices at One West Wilson Street, Madison, Wisconsin 53702.

3. That at all times material herein, WFT has been, and is, the exclusive collective bargaining representative of employees of the State in the professional educational bargaining unit.

4. That the State and WFT are parties to a collective bargaining agreement which terminates June 30, 1975; and that on November 20, 1974, the parties met to establish ground rules for the negotiation of a new collective bargaining agreement.

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5. That at said meeting, the WFT requested that negotiations not be held during working hours or, in the alternative, that the State release certain employees with pay to attend bargaining sessions held during normal working hours; and that the State denied this request, indicating that it would initially meet only during normal working hours, with employees on WFT's bargaining team being released without pay, or could charge such time to their accrued vacation or holiday credits during said negotiations.

6. That at said meeting, the State further indicated that, depending upon the progress in negotiations, it might later agree to meet after normal working hours and on weekends as requested by WFT.

7. That the parties have not met since November 20, 1974 to negotiate the collective bargaining agreement to succeed the present agreement.

On the basis of the foregoing Findings of Fact, the Commission makes the following

CONCLUSION OF LAW
AND DECLARATORY RULING

That the State of Wisconsin, by refusing to negotiate with the Wisconsin Federation of Teachers, other than during normal working hours, has not refused and is not refusing, to bargain in good faith within the meaning of Section 111.84(1)(d) of the State Employment Labor Relations Act.

Given under our hands and seal at the
City of Madison, Wisconsin this 21st
day of May, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND DECLARATORY RULING

Section 111.84(1)(d) of the State Employment Labor Relations Act establishes the State's duty to bargain in good faith with the collective bargaining representative of its employees. Section 111.81(2) of said statute defines a portion of such duty as a willingness "to meet and confer at reasonable times" with the bargaining representative of its employees. WFT contends that the State's refusal to meet at times other than normal working hours indicates an unwillingness to meet at "reasonable times" and thus constitutes a refusal to bargain in good faith.

The record indicates that the State is willing to meet with WFT during normal working hours and to release employees on WFT's bargaining team from work during negotiations. However, the State will not pay for such release time. The employees may, however, credit such time off to vacation or holiday pay. The record further indicates that the State may eventually be willing to meet after normal working hours and on weekends should the progress of negotiations merit such an arrangement.

On the basis of the evidence before it, the Commission concludes that the State's normal working hours are "reasonable times" for negotiations. WFT has made no showing that in meeting during such hours would, in any significant manner, hinder its ability to collectively bargain. The fact that meetings during such hours do not meet with the WFT's approval and may necessitate a loss in pay by members of its bargaining team does not establish that such times are unreasonable. Therefore, the Commission concludes that the State, by refusing to meet with WFT, other than during normal working hours, has not refused and is not refusing to bargain in good faith with WFT as contemplated in Section 111.84(1)(d) of the Act.

Dated at Madison, Wisconsin this 21st day of May, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

German Torosian
German Torosian, Commissioner