

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE DISTRICT COUNCIL 48,
AFSCME, AFL-CIO, AND NICK BALLAS,
STAFF REPRESENTATIVE,

Complainants,

vs.

CURATIVE WORKSHOP OF MILWAUKEE,

Respondent.

Case V

No. 18868 Ce-1595

Decision No. 13409-A

ORDER DENYING MOTION TO DISMISS

A complaint of unfair labor practices having been filed on February 25, 1975, with the Wisconsin Employment Relations Commission, herein Commission, by Milwaukee District Council 48, AFSCME, and Nick Ballas, Staff Representative, herein Complainants, wherein they alleged that Curative Workshop of Milwaukee, herein Respondent, had committed certain unfair labor practices within the meaning of the Wisconsin Employment Peace 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 on April 1, 1975, having filed a Motion to Dismiss; and the Examiner having considered said motion;

NOW, THEREFORE, it is

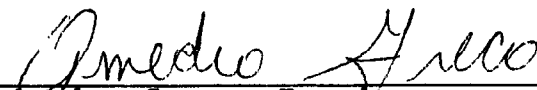
ORDERED

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

Dated at Madison, Wisconsin, this 7th day of April, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Amedeo Greco, Examiner

No. 13409-A

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO DISMISS

In its Motion to Dismiss, Respondent claims that the Complaint should be dismissed because: (1) some of the issues herein allege violations of the collective bargaining agreement, and, as such, they should be deferred to the contractually established grievance - arbitration procedure; and (2) the remaining issues are regulated by the National Labor Relations Act, as amended, and therefore are outside of the Commission's jurisdiction. Further, Respondent asks that the undersigned hear the evidence and arguments relating to its Motion to Dismiss prior to the commencement of the scheduled April 17, 1975, scheduled hearing.

Respondent's Motion to Dismiss is hereby denied at this time 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.

Dated at Madison, Wisconsin, this 7th day of April, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Amedeo Greco
Amedeo Greco, Examiner