

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Respondent .

No. 13510-B

That since the Respondent has refused to process the grievances involved herein, pursuant to the grievance and arbitration procedure set forth in the collective bargaining agreement existing between the parties, the Respondent has committed, and is committing, an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Employment Peace Act.

3. That the Examiner's Order be modified to read as follows:

ORDER


IT IS ORDERED that Handcraft Company, Inc., its officers and agents, shall immediately:


- (1) Cease and desist from refusing to submit all issues with respect to the January 13 and February 12 grievances to arbitration.
- (2) Take the following action which the Commission finds will effectuate the policies established by the Wisconsin Employment Peace Act:
  - (a) Notify AIW-AFL-CIO, Local Union No. 465 that it will, upon request, proceed to arbitration on all issues relating to the January 13 and February 12 grievances, in accordance with the procedures set forth in the collective bargaining agreement existing between the parties.
  - (b) Proceed and participate in the arbitration proceeding on all issues involving said grievances.
  - (c) Notify the Wisconsin Employment Relations Commission, in writing, within ten (10) days of the date of this Order as to what action has been taken to comply herewith.

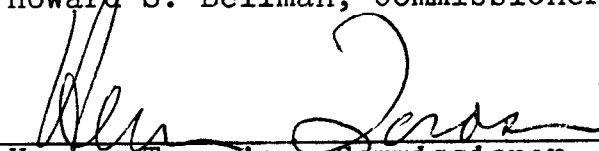
Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Howard S. Bellman, Commissioner

  
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING  
ORDER MODIFYING EXAMINER'S FINDINGS OF FACT, MODIFYING  
CONCLUSION OF LAW AND FURTHER MODIFYING ORDER

In his decision the Examiner found that the Employer had violated the collective bargaining agreement by refusing to process the grievances involved, and in that regard, the Examiner found that the Employer had committed an unfair labor practice and issued an Order requiring the Employer to proceed to arbitration. The Commission has modified the Examiner's Findings of Fact, Conclusion of Law and Order to more succinctly set out the issues involved which would be subject to the arbitration procedure.


During the course of the hearing the Employer alleged that the grievances were not timely filed. Said issue is a proper matter for the arbitrator to determine. While we generally agree with the Memorandum accompanying the Examiner's decision, it should be noted that in support of his various conclusions therein, the Examiner cites decisions that have been rendered by the federal courts. We wish to dispel any inference which might arise that the issues involved herein are matters of first impression to the Commission. On the contrary, it should be noted, with respect to matters subject to the jurisdiction of the arbitrator, the Commission has, as far back as January 1962 and continuing thereafter, held that in an unfair labor practice proceeding seeking the enforcement of an arbitration provision, the Commission will order arbitration where the party seeking arbitration is making a claim, which on its face, is governed by the collective bargaining agreement. 1/ The Commission has also long determined that an issue as to whether a union has complied with the contractual procedure in requesting arbitration is a matter for the determination of the arbitrator. 2/

We wish to note that we have eliminated that portion of the Examiner's Order wherein he required the Employer to participate in the processing of the grievances involved through the grievance procedure "if so directed by the arbitrator selected." We deem that portion of the Examiner's Order to be unwarranted in this proceeding. We see no reason to make any suggestions to the arbitrator as to the disposition of the issues to be determined by him. Should the Employer not comply with the arbitration award, the Union would have a right to file a complaint with the Commission alleging that the Employer refused to comply with the arbitration award, and thus committed an unfair labor practice within the meaning of Section 111.06(1)(g) of the Wisconsin Employment Peace Act.

Dated at Madison, Wisconsin, this 7th day of January, 1976.

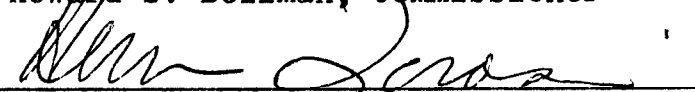
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1/ Edward Hines Lumber Company (5854-A), 1/62.

2/ Dunphy Boat Corp. 267 Wis. 216, 6/54; Seaman-Andwall Corp. (5910), 1/62; Racine Motor Hotel (10751-A, B), 6/72.