

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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TEAMSTERS GENERAL LOCAL UNION NO. 200  
AFFILIATED WITH THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN & HELPERS OF AMERICA,

Complainant,

vs.

NU-WAY AUTO ELECTRIC CO., INC.

and

MILWAUKEE TRUCK CENTER, INC.,

Respondents.  
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Case II

No. 19755 Ce-1645

Decision No. 14097-E

ORDER DENYING MOTION

Examiner Stanley H. Michelstetter, II having, on May 4, 1976 issued Findings of Fact, Conclusions of Law and Order with Accompanying Memorandum in the above-entitled matter, wherein he found inter alia that Respondent, Milwaukee Truck Center, Inc. had violated the terms of the collective bargaining agreement with the Complainant and committed an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Employment Peace Act (WEPA) by refusing to pay Carl Six three weeks of vacation pay, and wherein he ordered said Respondent to take certain affirmative action, including payment of said vacation pay to said Carl Six; and the Wisconsin Employment Relations Commission (Commission) having reviewed the Examiner's decision and having, on May 19, 1976 entered an Order Affirming Examiner's Findings of Fact, Modifying Examiner's Conclusions of Law and Reversing Examiner's Order wherein it dismissed said complaint; and said Carl Six having, on June 11, 1976 filed a Motion with the Commission wherein he requested that he be permitted to intervene in said proceedings and that the Commission set aside its Order Affirming Examiner's Findings of Fact, Modifying Examiner's Conclusions of Law and Reversing Examiner's Order pending further proceedings, wherein he would seek to present certain additional evidence which he alleges to be newly discovered within the meaning of Section 111.07(6) of the WEPA; and the Commission having considered said Motion and being satisfied that it is without jurisdiction to consider same, inasmuch as it was filed more than 20 days after the date of the Commission's Order Affirming Examiner's Findings of Fact, Modifying Examiner's Conclusions of Law and Reversing Examiner's Order;

NOW, THEREFORE, it is

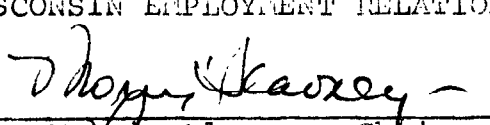
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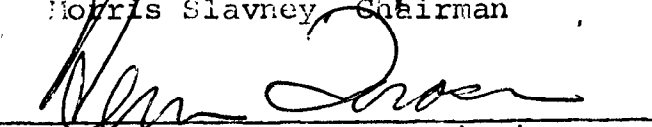
That the Motion of Carl Six to intervene in this proceeding for said purpose be, and the same hereby is, denied.

Given under our hands and seal at the  
City of Madison, Wisconsin this 8<sup>th</sup>  
day of July, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

No. 14097-E

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION

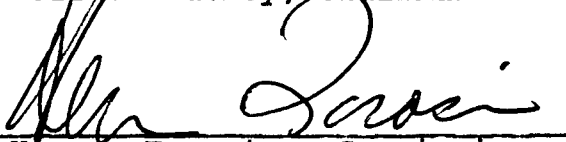
The Motion in this case was filed with the Commission on June 11, 1976, which date is more than 20 days after the date of the Commission's Order Affirming the Examiner's Findings of Fact, Modifying Examiner's Conclusions of Law and Reversing Examiner's Order, which was dated May 19, 1976. The Commission's review of the Examiner's decision took place within the 20 days during which said decision was still pending before the Examiner pursuant to Section 111.07(5) of WEPA. When the Commission entered its Order the 20 day period allowed for the purpose of setting aside, modifying or changing its own Order, because of mistakes or newly discovered evidence under Section 111.07(6) began to run. Since the Motion herein was filed more than 20 days after the date of the Commission's Order, the Commission is without jurisdiction to set aside, modify or change its Findings or Order. Consequently, we make no determination with regard to the merits of the claim of Carl Six that he is in a position to present newly discovered evidence, or that such evidence would constitute grounds for setting aside, modifying or changing our Order.

Dated at Madison, Wisconsin this 6th day of July, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner