

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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MINERAL POINT FEDERATION OF TEACHERS  
and WISCONSIN FEDERATION OF TEACHERS,  
AFL-CIO,

Complainants,

vs.

MINERAL POINT UNIFIED SCHOOL DISTRICT  
and ROBERT A. FLUM,

Respondents.  
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Case II  
No. 20885 MP-671  
Decision No. 14970-B

ORDER DENYING MOTION FOR RECONSIDERATION

Complaint of prohibited practices having been filed with the Wisconsin Employment Relations Commission in the above-entitled matter, and the Commission having appointed Stephen Schoenfeld, a member of its staff, to act as Examiner to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5), Stats., and the Examiner having heretofore and on March 31, 1978 issued his Findings of Fact, Conclusions of Law and Order in said matter, and the Complainants on April 17, 1978, having filed with the Examiner, a motion for reconsideration of his decision; and the Examiner being satisfied that the motion for reconsideration should be denied;

NOW, THEREFORE, it is

ORDERED

That the Complainants' motion for reconsideration is denied.

Dated at Madison, Wisconsin this 18th day of April, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Examiner

MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION FOR RECONSIDERATION

On March 31, 1978 the undersigned Examiner issued his Findings of Fact, Conclusions of Law and Order with Accompanying Memorandum in the above-entitled matter. On April 17, 1978 the Complainants filed a motion for reconsideration 1/ wherein they ask the Examiner to "withdraw" his opinion and decision pending receipt of a reply from the Respondent District to the Complainants' request that the Respondent District proceed to advisory arbitration.

The Examiner issued his findings and order pursuant to an appointment under Section 111.07(5), Stats. Under the provisions of that subsection, his findings and order become the findings and order of the Commission unless a petition for review is filed within twenty days after they were placed in the mail, on March 31, 1978, or the Commission or Examiner issues an intervening order within said period. Although the Complainants' motion does not so state, it is assumed that the request that the Examiner "withdraw" his opinion and decision is made pursuant to the Examiner's power, under Section 111.07(5), Stats., to set aside or modify his own findings and order during said twenty-day period rather than Section 227.12, Stats. 2/

The Complainants' motion, to the extent that it does not deal with issues already dealt with in the Examiner's decision of March 31, 1978, would appear to be based on a belief that the Respondents' answer to their recent request to proceed to advisory arbitration will possibly justify reopening the hearing herein. The Examiner believes that his decision was properly limited to the record before him and has consequently denied the motion.

Dated at Madison, Wisconsin this 18th day of April, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Examiner

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- 1/ On the same date the Complainants filed a petition for review with the Commission pursuant to Section 111.07(5), Stats. Presumably, this action was a protective measure in the event that the undersigned Examiner declined to act on the motion for reconsideration prior to April 20, 1978 or denied the motion without leaving sufficient time for the filing of such a petition before April 20, 1978. Since the Commission has not exercised its right to remove the proceeding pursuant to Section 111.07(6), Stats., the undersigned has ruled on the motion.
- 2/ A motion under Section 227.12, Stats., would be inappropriate since the Examiner's order was not a "final order" of the Commission.