



interview (including informal counseling) if he/she requests one and if the employee has reasonable grounds to believe that the interview may be used to support disciplinary action against him/her."

4. That on February 21, 1977 Froh contacted the Complainant and asked him to report to the State Office Building in Milwaukee, Wisconsin for a meeting with Froh and Moschkau; that Complainant appeared for the meeting; that Moschkau informed Complainant that the meeting was an investigatory interview conducted under the bargaining agreement between the Respondent and Complainant's collective bargaining representative; that Moschkau asked Complainant if he wanted any kind of representation; that Complainant responded by indicating that he did not want any representation; that the interview proceeded and Complainant did not request any representation during the course thereof; that on or about February 25, 1977 Complainant was discharged for alleged misconduct connected with his employment.

5. That on or about March 11, 1977 Complainant filed a grievance protesting his dismissal; that said grievance made no reference to any alleged denial of representation by Respondent, nor was said issue raised as the grievance was processed; that the Complainant's bargaining representative ultimately decided not to pursue the grievance to arbitration; and that the Complainant did not thereafter choose to arbitrate the grievance on his own behalf.

Based upon the foregoing Findings of Fact, the Examiner makes the following

#### CONCLUSION OF LAW

That Respondent State of Wisconsin, Department of Transportation, Motor Vehicle Department (Dealer Section) did not commit an unfair labor practice within the meaning of Section 111.84(1)(a) of SELRA during the February 21, 1977 meeting with Complainant Mitchell.

Based upon the foregoing Findings of Fact and Conclusion of Law, the Examiner makes the following

#### ORDER

That the complaint be, and the same hereby is, dismissed.

Dated at Madison, Wisconsin this 24th day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Peter G. Davis, Examiner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSION OF LAW AND ORDER


Complainant asserts that during his February 21, 1977 meeting with Moschkau and Froh he requested union representation; that his request was denied; and that said denial interfered with his rights under Section 111.84(1)(a) of SELRA. Respondent denies that Complainant ever requested union representation.

Both Complainant and Respondent agree that at the commencement of the February 21, 1977 meeting, Moschkau asked Complainant if he would like representation and that Complainant indicated he did not want representation. In light of Respondent's initial inquiry, which would appear to have been motivated by Article IV, Section 9(62) of the contract between Respondent and Complainant's bargaining representative, one could reasonably infer that Respondent would have granted a request for union representation at any point during the meeting if one had been made. In light of this apparent willingness to allow representation, the undersigned tends to credit the testimony of Froh and Moschkau that union representation was lacking only because Complainant never requested same. It is also noteworthy that Complainant's discharge grievance makes no mention of any denial of union representation. If same had occurred, it seems probable that it would have been raised by the Complainant inasmuch as such representation would appear to be mandated by the bargaining agreement between Respondent and Complainant's bargaining representative. In light of the foregoing, the Examiner concludes that Respondent offered Complainant an opportunity to be represented during the February 21 meeting; that Complainant chose not to have representation; that the Complainant did not thereafter request union representation during the remainder of February 21 meeting; and thus that Respondent did not deny Complainant such representation. Having reached this conclusion the undersigned need not reach the question of whether a statutory right to union representation existed in the instant situation under SELRA.

Dated at Madison, Wisconsin this 24th day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Peter G. Davis, Examiner