

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Decision No. 16125

No. 16125

4. That, on October 26, 1977 the Union served a notice on the Municipal Employer to open negotiations with respect to the terms and conditions of employment to be included in a collective bargaining agreement to succeed the agreement which was to expire on December 31, 1977; that on November 30, 1977 the parties exchanged their initial proposals; that prior to January 18, 1977 the parties met in negotiations on three separate occasions in efforts to reach an agreement on a new collective bargaining agreement; that on December 19, 1977 the parties forwarded a joint request to the Wisconsin Employment Relations Commission requesting the Commission to appoint a mediator in efforts to assist the parties in reaching such an accord; that Sherwood Malamud, a member of the Commission's staff was appointed as the mediator, and that on January 18, 1978 said mediator attempted to mediate the dispute; that the parties were unable to reach an accord during the course of mediation and on the same day the parties exchanged their final offers and stipulated to the matters agreed upon between them and submitted said final offers and stipulation to the mediator; that on the basis of the submission of final offers and stipulation of items agreed upon, as well as the parties written waiver of informal investigation, the mediator on February 3, 1978 served notice on the parties, in writing, that the investigation in the matter was closed; and thereafter said mediator advised the Commission that the parties remain at impasse.

5. That the parties have not established mutually agreed upon procedures for the final resolution of disputes arising in collective bargaining.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. That an impasse, within the meaning of Section 111.70(4)(cm)6, Wisconsin Statutes, exists between the Appleton City Employees Union (Water Works Division), Local 73, WCCME, AFSCME, AFL-CIO and the Appleton Water Commission with respect to negotiations leading toward a new collective bargaining agreement covering the wages, hours and conditions of employment affecting employees in the bargaining unit set forth in paragraph 3 of the Findings of Fact.

2. That the Appleton Water Commission and the Appleton City Employees Union (Water Works Division), Local 73, WCCME, AFSCME, AFL-CIO have substantially complied with the procedures set forth in Section 111.70(4)(cm), Wisconsin Statutes, required prior to the initiation of Mediation-Arbitration.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes the following

CERTIFICATION

IT IS HEREBY CERTIFIED that the conditions precedent to the initiation of Mediation-Arbitration, as required by Section 111.70(4)(cm)6, Wisconsin Statutes, with respect to negotiations between the Appleton Water Commission and the Appleton City Employees Union (Water Works Division), Local 73, WCCME, AFSCME, AFL-CIO covering wages, hours and conditions of employment for a new collective bargaining agreement affecting employees in the bargaining unit in paragraph 3 of the Findings of Fact have been met.

NOW, THEREFORE, IT IS

ORDERED

1. That Mediation-Arbitration be, and the same hereby is, initiated for the purpose of issuing a final and binding award to resolve the impasse existing between the Appleton Water Commission and the Appleton City Employees Union (Water Words Division), Local 73, WCCME, AFSCME, AFL-CIO involving the employees of said Municipal Employer employed in the bargaining unit described in paragraph 3 of the Findings of Fact.

2. That the parties select a Mediator-Arbitrator within ten (10) days after the issuance of this Order from the panel of Mediator-Arbitrators submitted to the parties in the accompanying letter of transmittal, by alternatively striking four (4) of the members from said panel for the selection of the neutral Mediator-Arbitrator; and thereupon the parties, or either of them, shall notify the Commission, in writing, of the name of the neutral Mediator-Arbitrator, and the Commission shall then issue an Order appointing said neutral Mediator-Arbitrator.

Given under our hands and seal at the
City of Madison, Wisconsin this 14th
day of February, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner


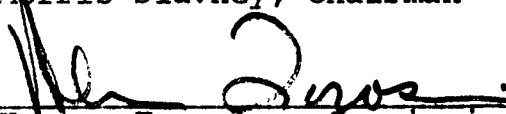
MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF
LAW, CERTIFICATION OF RESULTS OF INVESTIGATION
AND ORDER REQUIRING MEDIATION-ARBITRATION

It is to be noted that the Commission in its Conclusion of Law No. 2 has found that the parties have substantially complied with the procedures in Section 111.70(4)(cm) which are required prior to the initiation of Mediation-Arbitration. We reach such conclusion for the reason that the parties commenced their negotiations prior to January 1, 1978, the effective date of the new Mediation-Arbitration law, therefore it was not necessary prior to January 1, 1978 that either party notify the other in writing of an intent to reopen negotiations and further that the parties at the time of the initial meeting were not required to hold public meeting for the purpose of exchanging and explaining their initial proposals.

It should also be noted that the parties reached impasse at the January 18, 1978 mediation session. As a result, the parties exchanged final offers at that time. Furthermore, in anticipation of the Union filing a petition in the matter, both the Municipal Employer and the Union executed a written form waiving investigation when said petition was filed by the Union. The Commission's investigator closed the investigation on February 3, 1978 on the basis of the parties submission of a written stipulation of agreed upon items, their exchange of final offers, filing of a petition for Mediation-Arbitration by the Union, and the waiver by both parties of investigation in the matter.

Dated at Madison, Wisconsin this 14th day of February, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman

Herman Torosian, Commissioner