

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BRUCE D. SCHRIMPF and LEONARD A. TOKUS,

Complainants,

vs.

THOMAS W. DALE, DIRECTOR,
LEGAL SERVICE BUREAU, EQUAL RIGHTS
DIVISION, DEPARTMENT OF INDUSTRY,
LABOR AND HUMAN RELATIONS,

Respondent.

Case VI

No. 22614 PP(S)-52

Decision No. 16246-A

ORDER DENYING MOTION TO REOPEN

Bruce D. Schrimpf and Leonard A. Tokus having filed a complaint with the Wisconsin Employment Relations Commission, alleging that Thomas W. Dale, Director Legal Services Bureau, Equal Rights Division, Department of Industry, Labor and Human Relations had committed certain unfair labor practices within the meaning of the State Employment Labor Relations Act; and prior to the conduct of any hearing on said complaint the representatives of the parties having executed a joint stipulation, wherein they agreed that the complaint herein be withdrawn upon the terms of that stipulation; and the Commission having, on March 17, 1978, issued an order dismissing said complaint; and the Complainants, on July 18, 1978, having filed a motion to reopen said proceedings based on their claim that the Respondent and others have allegedly violated the terms of the stipulation; and the Commission having considered the matter and being advised in the premises and being satisfied that said motion be denied;

NOW, THEREFORE, it is

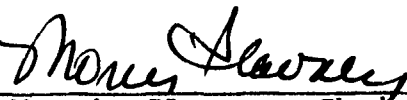
ORDERED

That the motion to reopen the instant proceeding be, and the same hereby is, denied.

Given under our hands and seal at the
City of Madison, Wisconsin this 1st
day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman



Herman Torosian, Commissioner



Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO REOPEN

In their motion to reopen, the Complainants allege that the Respondent and "other members of management, acting in common cause with him, have continuously since March 17, 1978, intentionally and maliciously violated each of the provisions" of the stipulation pursuant to which the complaint herein was dismissed.

The Respondent points out that the dismissal of the instant complaint was based upon the terms agreed to by the parties in their joint stipulation without any request that the Commission retain jurisdiction in the matter. In fact, in their letter of withdrawal the Complainants assert their belief that:

"Material portions of the relief sought in the complaint are now contained in the stipulation. It is for that reason, and the view of prevailing authorities that violation of the provisions of the stipulation shall itself constitute an unfair labor practice under pertinent statutory provisions, that the undersigned agreed to withdraw the action."

We therefore agree with the Respondent that the Complainants' motion should be denied. Our denial of said motion does not preclude the Complainants from filing a new complaint alleging a violation of the terms of the settlement agreement.

Dated at Madison, Wisconsin this 1st day of August, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Marshall L. Gratz
Marshall L. Gratz, Commissioner