STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF :

MACHINISTS AND AEROSPACE WORKERS, LODGE 34,

Complete out

Case II No. 22987 Ce-1776 Decision No. 16381-B

Complainant, :

:

vs.

FRANK L. WELLS COMPANY,

Respondent.

kespondent.

ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND MODIFYING EXAMINER'S ORDER

Examiner Douglas V. Knudson having, on October 27, 1978, issued his Findings of Fact, Conclusions of Law and Order in the above-entitled matter wherein he found that the Respondent had committed an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Employment Peace Act (WEPA) by discharging Thomas Jensen and ordered that the Respondent immediately offer Thomas Jensen reinstatement to his previous position or a substantially identical position without any loss of seniority but without backpay and to notify the Wisconsin Employment Relations Commission within twenty days following the date of said order as to what steps it had taken to comply therewith; and the Employer having failed to notify the Commission of what steps, if any, it has taken to comply with the Examiner's Order, and no petition for review of said Findings of Fact, Conclusions of Law and Order with Accompanying Memorandum having been filed within the twenty day statutory period set forth in Section 111.07(5), Stats.; and no intervening order by the Examiner or the Commission having been issued within said statutory period; and the Commission having reviewed the matter and being satisfied that the Examiner's Findings of Fact and Conclusions of Law be affirmed but that his Order be modified in view of the Respondent's failure to notify the Commission that it has reinstated Jensen;

NOW, THEREFORE, it is

ORDERED

- 1. That the Examiner's Findings of Fact and Conclusions of Law in the above-entitled matter be, and the same hereby are, affirmed.
 - 2. That the Examiner's Order is hereby modified to read as follows:

IT IS ORDERED that Respondent Frank L. Wells Company, its officers and agents, shall:

- 1. Immediately offer Thomas Jensen reinstatement to his previous or a substantially identical position without any loss in seniority but without backpay from April 14, 1978, through October 31, 1978.
- 2. Make Thomas Jensen whole for any loss in wages or benefits suffered by him from the period beginning on November 1, 1978,

through the date of its compliance with paragraph 1 of this Order by paying to him a sum of money equal to that which he would have earned had be been reinstated immediately on November 1, 1978, in accordance with the Examiner's Order, less any sum of money he has earned or received since November 1, 1978 and prior to its compliance with paragraph 1 of this Order that he would not have otherwise earned or received had he been reinstated on November 1, 1978. If Thomas Jensen has received unemployment compensation for any portion of the period beginning on November 1, 1978 and prior to the Respondent's compliance with this Order, the Respondent may deduct such compensation from the backpay due and owing Thomas Jensen and shall remand same to the unemployment compensation division of the Department of Industry, Labor and Human Relations.

3. Notify the Wisconsin Employment Relations Commission in writing within twenty (20) days of the date of this Order as to what steps have been taken to comply herewith.

Given under our hands and seal at the City of Madison, Wisconsin this 16th day of Noyember, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Herman Torosian, Commissioner

Marshall L. Gratz, Commissioner