

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE DISTRICT COUNCIL 48,
AMERICAN FEDERATION OF STATE, COUNTY
& MUNICIPAL EMPLOYEES, AFL-CIO,

Complainant,

vs.

MILWAUKEE COUNTY,

Respondent.

Case CVI
No. 23193 MP-870
Decision No. 16448-C

SUPPLEMENTAL INTERLOCUTORY FINDINGS
OF FACT, CONCLUSION OF LAW AND ORDER

A Motion to Clarify Interlocutory Order together with a supporting Affidavit, having been filed with Examiner James D. Lynch of the Wisconsin Employment Relations Commission on May 29, 1979, and the Respondent having failed to file any responsive pleading, and the Examiner having considered all of the evidence, arguments of counsel and being fully advised of the premises, makes and files the following Supplemental Interlocutory Findings of Fact, Conclusion of Law and Order.

SUPPLEMENTAL INTERLOCUTORY FINDINGS OF FACT

1. That the parties' 1977-78 collective bargaining agreement was in effect at least during the period August 31, 1977 through December 31, 1978.

2. That said collective bargaining agreement contains, inter alia, the following provision:

4.05 SELECTION OF AND APPEALS TO UMPIRE - PROCEDURE.

(1) SELECTION OF UMPIRE. To assist in the resolution of disputes arising under the terms of this Memorandum of Agreement and in order to provide an impartial forum to resolve such disputes, the parties agree to appoint an impartial umpire who shall act in each area of dispute as hereinafter provided. Such umpire shall be selected by mutual agreement between the Union and the Personnel Committee of the County Board of Supervisors and shall be compensated for his services in a manner which is mutually satisfactory to the County, the Union and the Umpire. He shall serve for a period of one year from the date of his appointment except that his term of office may be extended from time to time by mutual agreement of all parties.

In the event that parties are unable to agree upon the appointment of an impartial umpire, or in the event the agreed upon umpire becomes incapacitated or disqualifies himself and is unable to continue to serve as such and the parties are unable to agree upon a mutually acceptable alternate, the parties shall petition the Wisconsin Employment Relations Commission for the appointment of an arbitrator in accordance with the Commission's procedures.

3. That at all times during the period of said 1977-78 collective agreement by mutual agreement of the parties, Mr. Frank P. Zeidler served as the parties' umpire for the purpose of hearing all matters appealed to arbitration during the term of said collective agreement.

4. That the subject grievance of the five named Neighborhood Security Aides arose under and is governed by the terms of the parties' 1977-1978 collective bargaining agreement and was appealed to arbitration during the term of the parties' 1978-79 collective bargaining agreement.

INTERLOCUTORY CONCLUSION OF LAW

That Respondent, Milwaukee County, has violated, and continues to violate, the terms of the 1977-78 collective bargaining agreement then existing between it and Complainant, Milwaukee District Council 48, American Federation of State, County & Municipal Employees, AFL-CIO, by refusing to submit the grievances relating to the suspension, denial of union representation and discharge of the five named Neighborhood Security Aides to arbitration before Mr. Frank P. Zeidler, the parties' arbitral umpire during the term of said 1977-78 collective bargaining agreement, and by refusing to so arbitrate said grievance has committed and is committing prohibited practices within the meaning of Section 111.70(3)(a)5 of the Municipal Employment Relations Act.

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

SUPPLEMENTAL INTERLOCUTORY ORDER

The Respondent, Milwaukee County, and its agents, shall immediately:

1. Cease and desist from refusing to submit the aforesaid grievance and issues relating thereto to arbitration before Mr. Frank P. Zeidler.

2. Take the following affirmative action which the Examiner finds will effectuate the purposes of Section 111.70(3)(a)5 of the Municipal Employment Relations Act:

- (a) Comply with the arbitration provisions of the parties' 1977-78 collective bargaining agreement then existing between Respondent and Milwaukee District Council 48, AFSCME, AFL-CIO, with respect to the subject grievance of the five named Neighborhood Security Aides.
- (b) Notify Milwaukee District Council 48, AFSCME, AFL-CIO that Respondent will proceed to final and binding arbitration before Mr. Frank P. Zeidler on said grievance and the issues concerning same.
- (c) Participate with Milwaukee District Council 48, AFSCME, AFL-CIO, in the arbitration proceedings before Mr. Frank P. Zeidler to resolve said grievance and related issues.
- (d) Notify the Wisconsin Employment Relations Commission, in writing, within twenty (20) days from the date of this Order as to what steps it has taken to comply herewith.

- (e) Request the permanent umpire, Mr. Frank P. Zeidler, to furnish the Examiner with a copy of his Arbitration Award.

Dated at Madison, Wisconsin this 7th day of June, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James D. Lynch
James D. Lynch, Examiner