

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LOIS COSE, LINDA CURRY, and the BIG
FOOT ELEMENTARY EDUCATION ASSOCIATION,

Complainants,

vs.

WALWORTH UNION HIGH SCHOOL DISTRICT
and the BIG FOOT EDUCATORS,

Respondents.

Case II
No. 23470 MP-890
Decision No. 16550-A

ORDER DENYING MOTION FOR JUDGEMENT ON THE
PLEADINGS AND GRANTING MOTION FOR POSTPONEMENT

The above-named Complainants having, on September 1, 1978, filed a complaint with the Wisconsin Employment Relations Commission alleging that the above-named Respondents have committed certain prohibited practices within the meaning of the Municipal Employment Relations Act; and the Commission having appointed Peter G. Davis, a member of its staff, to act as Examiner in said matter; and the Examiner having issued a Notice of Hearing on Complaint on September 12, 1978, which, inter alia, stated that the above-named Respondents could respond to Complainants' allegations in an Answer which was to be served on the Examiner and Complainants on or before September 26, 1978; and Complainants having, on September 27, 1978, filed a motion for judgement on the pleadings or alternatively a postponement of the hearing because Respondents had allegedly failed to file timely Answers; and on September 28, 1978, Respondent Big Foot Educators having filed an Answer; and the Examiner, having considered Complainants' motion;

NOW, THEREFORE, it is

ORDERED

1. That Complainants' motion for judgement on the pleadings is hereby denied.
2. That Complainants' alternative motion for postponement is granted.
3. That the hearing in the above-entitled matter is hereby postponed until November 2, 1978, at 9:30 a.m. in the City Hall, Walworth, Wisconsin.

Dated at Madison, Wisconsin this 28th day of September, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Peter G. Davis, Examiner

No. 16550-A


MEMORANDUM ACCOMPANYING ORDER DENYING MOTION FOR JUDGEMENT
ON THE PLEADINGS AND GRANTING MOTION FOR POSTPONEMENT

ERB 22.03(a) to the contrary, the Commission has consistently refused to find that failure to file an Answer in a prohibited practice case constitutes a waiver of a hearing as to material facts alleged in a complaint. Inasmuch as the Examiner believes that said policy is sound, Complainants' motion for judgement on the pleadings is hereby denied. It is also noted that Respondent Big Foot Educators has now filed an Answer and it is hoped that Respondent Walworth Union High School District will also do so. Given Complainants' assertion that Respondents' failure to file timely Answers has impeded its preparation for the hearing, the motion for postponement has been granted.

Dated at Madison, Wisconsin this 28th day of September, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Peter G. Davis, Examiner