

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN GENERAL & INDUSTRIAL WORKERS	:	
UNION LOCAL 104, AFL-CIO, LDIU,	:	
	:	Case XXII
Complainant,	:	No. 23907 CE 1805
	:	Decision No. 16752-A
vs.	:	
	:	
CHECKER TAXI COMPANY, INC.,	:	
	:	
Respondent.	:	
	:	

Appearances:

Thomas W. Kiesgen, Council Representative, appearing on behalf of Complainant.
No appearance on behalf of the Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Wisconsin General & Industrial Workers Union Local 104, AFL-CIO, LDIU, having filed a complaint of unfair labor practices on December 19, 1978 with the Wisconsin Employment Relations Commission, in which it alleged that Checker Taxi Company, Inc., hereinafter referred to as Respondent, had committed certain unfair labor practices within the meaning of the Wisconsin Employment Peace Act; and the Commission having appointed Timothy E. Hawks, a member of its staff, as Examiner to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5) of the Wisconsin Employment Peace Act, and Hearing on said Complaint having been held on February 5, 1979; and the Examiner having considered the evidence and argument of counsel, makes and issues the following Findings of Fact, Conclusions of Law and Order

FINDINGS OF FACT

- (1) Complainant, Wisconsin General & Industrial Workers Union Local 104, AFL-CIO, LDIU, is a labor organization with its principal offices located at 2025 Atwood Avenue, Madison, Wisconsin.
- (2) Respondent, Checker Taxi Company, Inc., is a corporation with its principal office located at the time of the incidents giving rise to the instant complaint at 101 South Baldwin Street, Madison, Wisconsin 53703. At all times relevant to the instant proceeding, Richard Cody and Raymond Veloff were agents of Checker Taxi Company, Inc.
- (3) A Collective Bargaining Agreement was in effect between the Complainant and Respondent from September 22, 1977 to September 23, 1978. During the period the Collective Bargaining Agreement was effective, a grievance was filed by John Longfield pursuant to the grievance and arbitration procedure of the aforementioned Collective Bargaining Agreement. Said grievance read as follows:

I, John Longfield, have been discharged without just cause. The Company is in violation of ARTICLE XIII - NO DISCRIMINATION, ARTICLE XV - DISCHARGE AND SUSPENSION PROCEDURE, ARTICLE XII - Maintenance Standards,

ARTICLE IX - Seniority, and other pertaining Articles of the Labor Agreement. I demand to be reinstated and made whole for all time lost and receive all rights and privileges as though I were never discharged. Further, it is demanded that the Company apologize to me, in writing, with a copy to all employees, for this unjust discharge. (Dated April 21, 1978)

(4) The grievance filed by Longfield was set for hearing on October 13, 1978 before Arbitrator Steven Schoenfeld, however, prior to the submission of record evidence and testimony agreement was reached between Checker Taxi Company, Inc. and John Longfield which stated in relevant part:

It is hereby stipulated and agreed between Checker Taxi Company, Inc. and Wisconsin General and Industrial Workers Union Local 104, AFL-CIO, LDIU, that the grievance involving Lee Johnson and John Longfield are herewith withdrawn with prejudice upon the following terms and conditions:

. . .

2. That John Longfield shall be reinstated as a taxi cab driver without any back pay, that he shall not be required, unless he desires, to cross the picket line, but shall make his intention known with respect to returning to said job no later than one week after the Employer offers him a position as a driver.
3. That the Employer shall pay Longfield \$50.00 no later than thirty (30) days from the effective date. That said money constitutes a good faith attempt to resolve this particular grievance, and no way reflects any admission of wrong doing by either party, and shall be of no precedential value in resolving subsequent grievances.
5. That the parties recognize that the settlement is entered into without any adjudications of the merits or lack thereof of the grievances involved herein.
6. That nothing herein shall be of precedential value in resolving subsequent grievances.
7. That this Agreement shall not take effect until the signature blocks are executed herein.

(Signed by Raymond Veloff, Thomas Kiesgen, Lee Johnson and John Longfield)

(5) As of the date of the Hearing, Longfield had not received \$50.00 from Checker Taxi Company, Inc. as provided in the grievance settlement.

CONCLUSIONS OF LAW

(1) The Agreement executed by Raymond Veloff, on behalf of Checker Taxi Company, Inc.; Thomas Kiesgen, on behalf of the Union; John Longfield and Lee Johnson as Grievants, on October 13 and 16, 1978, constitutes a Collective Bargaining Agreement within the meaning of the Wisconsin Employment Peace Act.

(2) By failing and refusing to abide with the terms of said Settlement Agreement, Checker Taxi Company, Inc., has committed an unfair labor practice within the meaning of Section 111.06(1)(f) of the Wisconsin Employment Peace Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following Order.

ORDER

It is ordered that the Respondent, Checker Taxi Company, Inc., their officers and agents, shall immediately take the following affirmative action which the Examiner finds will effectuate the purposes of the Wisconsin Employment Peace Act:

(a) Immediately comply with the terms of the October 10, 1978 Settlement Agreement by paying to John Longfield \$50.00 with interest to accrue from the date the Agreement provided said amount was due, i.e. November 13, 1978.

(b) Notify the Wisconsin Employment Relations Commission in writing, within fourteen (14) days following the date of this Order, as to what steps have been taken to comply herewith.

Dated at Madison, Wisconsin this 24 day of October, 1979.

By



Timothy E. Hawks, Examiner

MEMORANDUM ACCOMPANYING FINDINGS
OF FACT, CONCLUSIONS OF LAW AND ORDER

It should be noted at the outset that Respondent failed to appear at the Hearing and profer a defense to the charges of the Complaint, although receipt for certified mail notifying the Respondent of Hearing on the instant matter was signed by D. Veloff. Prior to the Hearing, Richard Cody, an agent of Checker Taxi Company, Inc., responded by the following handwritten missive to the undersigned.

Mr. Timothy Hawks
WERC
14 West Mifflin Street
Madison, Wisconsin

Dear Mr. Hawks:

Re: Hearing of Checker Cab and the Union on the
Longfield \$50.00

Checker Cab has always acknowledged the debt of \$50.00 to Mr. Longfield. We simply have not had the funds to pay this in the past, nor do we have now. We will not be at the Hearing next Monday as there is nothing further we can say. By the way, I am not President of Checker Cab Company, having resigned on 12/19/78. In fact, I have not been employed by Checker since before the first of the year. Also, as of today, Checker has been forced out of business, so this whole point is moot anyway.

Sincerely,

Richard Cody

Subsequent to the Hearing, the undersigned invited Checker Taxi Company, Inc., Richard Veloff and Richard Cody to review the Transcript of the proceeding. Receiving no response the undersigned proceeded to issue the instant Findings of Fact, Conclusions of Law, Order and Memorandum accompanying same.

It is clearly established that the failure to comply with the grievance settlement is an unfair labor practice within the meaning of 111.06(1)(f). 1/ The Respondent in failing to appear at the Hearing or otherwise tending a defense on the merits of the Complaint is assumed to have admitted the allegations of the Complaint. Inability to comply with the Settlement Agreement as a consequence of financial difficulties, by no means exonerates

1/ F. Taft Co., Inc. (12478) 2/74; Northwest General Hospital (12839-B) 12/19/75; Fugarino Excavating (11846-A) 6/73; and Stolper Industries, Inc. (8517) 8/1967.

Respondent from the obligations it undertook in said Agreement.

Dated at Madison, Wisconsin, this 24 day of October, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Timothy E. Hawks
Timothy E. Hawks, Examiner