



4. The "Settlement Agreement" reached on April 27, 1978, was signed by Ms. Maureen Scribner, Mr. Barry Delaney, Mr. Horton Strom, President of the Association, Ms. Diana Johnson, Secretary of the Association, Mr. Harold Ehlers, President of the District Board of Education, and Ms. Elizabeth Hannik, Clerk of the District Board of Education. Said Agreement states in relevant part:

The South Shore School District agrees to pay the sum of \$2,600.00 to Ms. Scribner after December 30, 1978 if Ms. Scribner is not employed at that time. There will be no deductions taken from this amount for social security or tax purposes. If Ms. Scribner has a part time job on December 30, 1978 the amount paid to her as settlement shall be a prorated portion of the \$2,600.00 based on a percentage of her employment. Ms. Scribner will provide the Board with a statement under oath from her employer if employed part time, or a statement under oath from herself, showing her employment status.

5. Ms. Scribner was employed part time by the Newman High School during the months of September through December, 1978, and earned \$186.00 for such employment. Prior to December 31, 1978, Ms. Scribner was also employed on a substitute basis by Music for America for which she was paid \$88.00.

6. In a letter dated January 22, 1979, Ms. Scribner communicated the following to the District Administrator at the South Shore School District.

About a month ago, I sent a registered letter to Mr. Ehlers [sic] with a notarized statement of my employment status [sic]. I assume that this letter was misplaced so I am sending a second statement.

I have been unable to secure a teaching contract, or any other kind of employment. As of January 22, 1979 I am still unemployed. I swear that this statement is the truth.

Upon the above and foregoing Findings of Fact, the undersigned makes the following

#### CONCLUSION OF LAW

Ms. Maureen Scribner violated Section 111.70(3)(b) 4 of the Municipal Employment Relations Act by her letter of January 22, 1979, which stated falsely her past employment, thus failing to comply with the "Settlement Agreement" reached between the School District and the Association and Ms. Scribner.

Upon the above and foregoing Findings of Fact and Conclusion of Law, and in light of the agreement reached in the instant matter at the time of hearing, and in order to further the policies of the Municipal Employment Relations Act, the undersigned makes and issues the following

#### ORDER

Ms. Maureen Scribner shall cease and desist from violating Section 111.70(3)(b)4 in that upon request by the South Shore School District, she shall truthfully state her employment status as required by the "Settlement Agreement" reached between the District and the Association. It is further ordered pursuant to the request made at the time of hearing by the Association that the complaint of prohibited practices made by the Union is hereby dismissed with prejudice.

Dated this 21st day of December, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Timothy E. Hawks  
Timothy E. Hawks, Examiner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSION OF LAW AND ORDER

On March 6, 1978, Maureen Scribner filed a grievance with the District alleging that the District had non-renewed her teaching contract in violation of the then-effective collective bargaining agreement. The parties could not resolve the dispute during the grievance process, and on March 17, 1978, the Association requested appointment of a staff member of the Wisconsin Employment Relations Commission to arbitrate the dispute. Immediately prior to the hearing, the parties agreed that the Association would request dismissal of the arbitration and that the District would recompense Scribner pursuant to the terms stated in Finding of Fact No. 4.

On March 30, 1978, Scribner corresponded with Mr. Ehlers, Board President, stating that she had "been unable to secure a teaching contract for the 1978-79 school year (or any other form of employment)". On January 5, Mr. Ray Artz, District Administrator, responded to Scribner stating that her compensation would be taken up at the January Board meeting. Artz followed his previous missive with another dated December 19, 1979, indicating that she was required to make a statement under oath regarding her employment status by the terms of the "Settlement Agreement".

Scribner complied with the letter dated January 27, 1979, and set out above in Finding of Fact No. 6. In the meantime, Artz received notification from the Department of Industry, Labor & Human Relations that Scribner had reported income during the Fall of 1978. Accordingly, Artz communicated the same to Scribner in a letter dated January 26, 1979. A lengthy exchange of correspondence followed, although it is sufficient here to note that the District withheld the amount that it agreed to pay Scribner until the issue of her earnings was resolved. Ms. Scribner did attempt to clarify the matter by admitting she had been employed by Newman High School and Music for America, as noted above in Finding of Fact No. 5.

As a consequence of the delay in payment to Scribner, the Association filed the instant complaint alleging that the District had failed to comply with the collective bargaining agreement in contravention of Section 111.70(3)(a) 5.

The District filed an Answer and Counterclaim wherein it alleged that Ms. Scribner had committed a prohibited practice by the letter of January 22, 1979. At the hearing, the Board agreed to pay Scribner \$2,300.00 by June 1, 1979, and the Association requested that the complaint be dismissed. The issue raised in the Counter-Complaint remained to be resolved.

The Counter-Complaint alleges that Ms. Scribner, as a municipal employe, violated the Municipal Employment Relations Act, Section 111.70 (3)(b) 4 of MERA, which provides:

It is a prohibited practice for a municipal employee individually or in concert with others: to violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours and conditions of employment affecting the municipal employees, including an agreement to

arbitrate questions arising as to the meaning or application of the terms of the collective bargaining agreement or to accept the terms of such arbitration award, where previously the parties have agreed to accept such awards as final and binding upon them.

It is not disputed that at all times material to the instant proceeding Scribner was a municipal employe, as defined by Section 111.70(1)(b). This Commission and its staff have repeatedly held that a settlement agreement reached by parties in anticipation of arbitration provided by a collective bargaining agreement is itself a collective bargaining agreement as that term is used in Sections 111.70(1)(d), 3(a)5, and 3(b)4. The "Settlement Agreement" in the instant matter required Scribner to state her employment status. By incorrectly stating her status, Ms. Scribner committed a prohibited practice as defined by Section 111.70(3)(b)4.

In this matter the parties resolved the underlying dispute and the Examiner has chosen to order Ms. Scribner to cease and desist from the commission of such prohibitive practice. The Order, although possibly superfluous in the light of the settlement, includes a statement of the municipal employe's affirmative obligation to comply with the "Settlement Agreement".

Dated this 21st day of December, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Timothy E. Hawks  
Timothy E. Hawks, Examiner