

LUCIO PADILLA.

Complainant,

vs.

KENOSHA AUTO TRANSPORT
CORPORATION,

Respondent.

Case I
No. 28659 Ce-1930
Decision No. 19081-C

Examiner Edmond J. Bielarczyk, Jr., having, on January 6, 1983, issued his Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, in the above-entitled proceeding, wherein the Examiner concluded that the Union, Teamsters Local 43, in the processing of a lay-off grievance on the Complainant's behalf, did not violate its duty to fairly represent Complainant, and further, that the Commission would not assert its jurisdiction to review the merits of Respondent's alleged breach of the collective bargaining agreement between the Union and Respondent, in violation of Section 111.06(1)(f) of the Wisconsin Employment Peace Act with respect to the lay-off of the Complainant; and, therefore, the Examiner dismissed the complaint; and no petition for review 1/ 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., by any party involved; and no intervening order by the Examiner or the Commission having been issued within said statutory period;

NOW, THEREFORE, the Commission issues the following

NOTICE

That, by operation of Section 111.07(5), Stats., Examiner Bielarczyk's Findings of Fact, Conclusions of Law and Order issued in the above-entitled matter became the Commission's Findings of Fact, Conclusions of Law and Order on January 26, 1983. 2/

Given under our hands and seal at the City of
Madison, Wisconsin this 28th day of January, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Gary L. Covelli, Chairman

Herman Torosian, Commissioner

1/ On January 27, 1983, the Commission received a Petition for Review from Counsel for the Complainant, but said Petition for Review was not timely filed pursuant to Section 111.07(5), Stats.

2/ See page two.

Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.