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DISTRICT I

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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

Marilyn L. Graves
Clerk

Madison, February 22, 1989

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Decision No. 19311-D and
19312-D

You are hereby notified that the Court entered the following opinion and order:

88-1632 James A. Leavens, et al. v.
The Wisconsin Employment Relations Commission, et al.

Before Moser, P.J., Sullivan and Fine, JJ.

Larry G. Greenhill and Richard F. Maier appeal from an order affirming a decision of the Wisconsin Employment Relations Commission (WERC). In its order, WERC found that the City of Wauwatosa's dismissal of Greenhill and Maier did not violate the collective bargaining agreement covering their employment. Based upon our review of the briefs and record, at conference, we conclude that this case is appropriate for summary disposition. See Rule 809.21, Stats. We affirm the order.

Greenhill and Maier were probationary firefighters, and both were discharged near the end of their probationary period. The collective bargaining agreement provided that a "probationary employee may be laid off, transferred, or

discharged for cause at any time" during the probationary period. Greenhill and Maier contend that WERC's decision alters the plain meaning of the phrase "for cause" to limit its protection to arbitrary and capricious discharges. They also contend that, even applying the "arbitrary and capricious" standard, they were not lawfully discharged. Further, Maier contends that the evidence was insufficient to support the finding that his attitude affected station morale.

In reviewing a circuit court's order affecting an administrative agency's decision, this court's scope of review is identical to the circuit court's. See Lewandowski v. State, 140 Wis.2d 405, 409, 411 N.W.2d 146, 148 (Ct. App. 1987). The circuit court's memorandum decision fully sets forth the facts of the case and the appropriate standard of review. It also provides an excellent analysis of the evidence and the controlling law, and it is a proper application of the law to the facts of the case. We adopt the trial court's memorandum decision as the decision of this court.

Based upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to Rule 809.21, Stats.

Marilyn L. Graves
Clerk of Court of Appeals