

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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COUNCIL 40, AFSCME, AFL-CIO,

Complainant,

vs.

MARINETTE SCHOOL DISTRICT,

Respondent.  
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Case XVIII  
No. 29496 MP-1318  
Decision No. 19542-C

Appearances:

Lawton and Cates, Attorneys at Law, 110 East Main Street, Madison, WI 53703,  
by Mr. Bruce F. Ehlke, appearing on behalf of the Complainant.  
Jabas and Morrison, S.C., Attorneys at Law, 903 Pierce Avenue, Marinette, WI  
54143, by Mr. James A. Morrison, appearing on behalf of the  
Respondent.

ORDER SETTING ASIDE EXAMINER'S  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
AND DISMISSING COMPLAINT AND PETITION FOR REVIEW

On June 3, 1983, Examiner Lionel L. Crowley having issued Findings of Fact, Conclusions of Law and Order in the above-entitled matter wherein he dismissed a complaint filed by Council 40, AFSCME, AFL-CIO which alleged that Marinette School District had committed certain prohibited practices; and Council 40 having timely filed a petition for Commission review of the Examiner's decision; and the matter having thereafter been held in abeyance pending the parties' efforts to resolve the dispute; and on June 28, 1984, the Commission having received a letter from Council 40 indicating that the parties had reached a settlement agreement and requesting that the Commission proceed to set aside the Examiner's decision and dismiss the complaint and petition for review; and on July 11, 1984, the Commission having received a letter from the District which concurred with Council 40's request; and based upon the parties' request, the Commission being satisfied that the Examiner's decision should be set aside and that the complaint and petition for review should be dismissed.

NOW, THEREFORE, the Commission makes and issues the following

ORDER 1/

1. Pursuant to the joint request of the parties, Examiner Crowley's Findings of Fact, Conclusions of Law and Order in this matter dated June 3, 1983, shall be, and hereby are, set aside for the purpose of Commission dismissal of the complaint and petition for review filed in this matter.


2. The complaint of prohibited practices filed in this matter by the Complainant on March 22, 1982, shall be, and hereby is, dismissed.

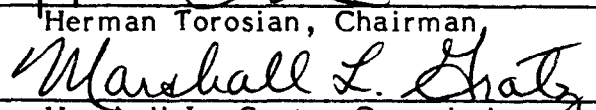
3. The petition for Commission review filed in this matter by the Respondent on June 8, 1983, shall be, and hereby is, dismissed.


Given under our hands and seal at the City of  
Madison, Wisconsin this 26th day of July, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Marshall L. Gratz, Commissioner

  
Danae Davis Gordon, Commissioner

- 1/ 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.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.20 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.