

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

GREEN COUNTY DEPUTY SHERIFF's ASSOCIATION,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case LXIX
	:	No. 31044 MP-1433
GREEN COUNTY,	:	Decision No. 20308-A
	:	
Respondent.	:	
	:	

Appearances:

Kelly, Haus and Katz, S.C., Attorneys at Law, 302 East Washington Avenue, Madison, WI 53703, by Mr. William Haus, appearing on behalf of the Complainant.

Melli, Shiels, Walker & Pease, S.C., Attorneys at Law, 119 Monona Avenue, P.O. Box 1664, Madison, WI 53701, by Mr. Jack D. Walker, appearing on behalf of the Respondent.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Green County Deputy Sheriff's Association having, on January 20, 1983, filed a complaint with the Wisconsin Employment Relations Commission, hereinafter the Commission, alleging that Green County had committed prohibited practices within the meaning of Secs. 111.70(3)(a)1 and 4 of the Municipal Employment Relations Act, hereinafter referred to as MERA; and the Commission having, on February 8, 1983, appointed Lionel L. Crowley, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5), Stats.; and hearing on said complaint having been held in Monroe, Wisconsin on March 9, 1983; and the parties having filed briefs and reply briefs, the last of which were exchanged on July 1, 1983; and the Examiner having considered the evidence and arguments of Counsel, and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. That Green County Deputy Sheriff's Association, hereinafter referred to as the Union, is a labor organization existing for the purposes of representing law enforcement employees through collective bargaining, and its offices are located at P. O. Box 455, 2827 6th Street, Monroe, Wisconsin 53566.

2. That Green County, hereinafter referred to as the County, is a municipal employer with its offices located at the Green County Courthouse, Monroe, Wisconsin 53566.

3. That the Union and the County have been parties to a series of collective bargaining agreements, the most recent of which, by its terms, covered the period January 1, 1980 through December 31, 1981; and that said agreement contained the following provisions:

ARTICLE I
RECOGNITION AND UNIT OF REPRESENTATION

1.01 The Employer (a Municipal Employer) recognizes the Union as the exclusive certified collective bargaining representative for all regular full-time and regular part-time sworn deputies in the employ of Green County in its Sheriff's Department, excluding managerial, supervisory and confidential employees.

ARTICLE II
NEGOTIATIONS

. . .

2.02 Negotiations shall proceed in the following manner: the party requesting negotiations shall notify the other party in writing of its desire to negotiate a successor collective bargaining agreement one hundred twenty (120) days prior to the expiration of this contract. Within thirty (30) days of the request for such meeting, an initial meeting of the parties shall be held. At such meeting, the party making the request shall present its proposals. The party to whom the proposals are made shall have the opportunity to study such proposals and to respond and present proposals and counterproposals within fifteen (15) days thereafter; and negotiations shall continue thereafter upon a mutually agreeable basis with a view towards an amicable settlement.

. . .

ARTICLE XVIII
HEALTH INSURANCE

18.01 For full-time employees who elect family coverage, the County agrees to pay 90% of the monthly premium for the health insurance coverage which was in effect as of January 1, 1980. For full-time employees who elect single coverage, the County agrees to pay 100% of the single premium for such coverage.

. . .

ARTICLE XXIII
DURATION

23.01 This Agreement shall go into effect January 1, 1980 and continue until December 31, 1981, and shall be considered automatically renewed from year to year thereafter, unless prior to September 1st, either party shall serve written notice upon the other that it desires to renegotiate, revise or modify this Agreement.

4. That on August 14, 1981, the Union gave written notice to the County of its desire to negotiate a successor agreement to the 1980-81 collective bargaining agreement; that the initial bargaining session between the parties was held on September 16, 1981 and the Union submitted its proposals for a successor agreement at said meeting, including a proposal that the County pay 100% of the health insurance premium; that a second bargaining session was held on October 7, 1981, at which the Union submitted additional proposals and the County submitted its initial proposals; that at said session, the County informed the Union of the health insurance rates which the then current carrier proposed for 1982, and invited the Union to attend a meeting with the carrier to discuss the matter; that the parties scheduled a bargaining session for October 28, 1981; and that the Union did not attend any meeting with the carrier and the County.

5. That on October 19, 1981, the Union filed a petition for final and binding arbitration with the Commission under Sec. 111.77, Stats., and the October 28, 1981 bargaining session was cancelled; that the Commission appointed a member of its staff to conduct an investigation in the matter; and that on November 11, 1981, the Investigator confirmed the scheduling of a meeting with the parties for January 12, 1982.

6. That on December 14, 1981, the County, by its Attorney, sent to the Union's Attorney three health insurance brochures and an accompanying letter which stated, in part, as follows:

"The County hereby proposes this health insurance plan in its bargaining with you, to be effective as soon as possible after

contract expiration on December 31, 1981, and as a substitute for the existing plans.

We offer to bargain about this change.";

and that on December 22, 1981, the County submitted this health insurance proposal to the Commission's Investigator.

7. That on January 5, 1982, the County, by its Attorney, sent a letter to the Union's attorney, which stated as follows:

"Please take notice that Green County presently intends to implement its health insurance proposal to you, effective February 1, 1982.

The County offers to bargain with you about this matter, to the extent that it is properly and mandatorily bargainable at this time."

8. That on January 12, 1982, the parties met with the Commission Investigator and the issue of health insurance was discussed; that the Union indicated that it would agree to the County's insurance proposal if the County would agree to pay 100% of the premium rather than 90%; that the County counter-proposed to pick up \$200 of the co-insurance if the Union accepted its proposal; and that at this meeting no agreement was reached on the issue of health insurance.

9. That on January 18, 1982, the Union's Attorney responded to the County's Attorney's January 5, 1982 letter and made known its objection to any unilateral change in health insurance and indicated that substantive discussions on it first occurred on January 12, 1982 and unilateral implementation would thwart bargaining; that the County responded to this letter on January 21, 1982 indicating that it was available to bargain on its proposal and that implementation would be unlikely before March 1, 1982; that on January 26, 1982, the Investigator confirmed an exchange of initial final offers by February 12, 1982 and scheduled a meeting with the parties for March 16, 1982; and that on February 9, 1982, the County adopted a resolution changing the health insurance provider effective March 1, 1982.

10. That on February 12, 1982, the parties submitted their respective initial final offers to the Commission's Investigator; that on this same date, the County notified its then present health insurance carrier that it was cancelling its health insurance plan effective April 1, 1982; that the Commission's Investigator exchanged the parties' final offers on February 16, 1982; that on February 18, 1982, the Union objected to the form and clarity of the County's final offer; that on February 24, 1982, the Union, by letter, objected to the County's unilateral change in health insurance coverage and demanded retention of the current coverage; that the Union's initial final offer contained a provision on health insurance which continued the present plan with employees contributing \$12.50 per month; that on February 26, 1982, the County submitted a final offer which contained the following proposal on health insurance:

"8. Change Section 18.01 to read:

For full-time employees who elect family coverage, the County agrees to pay 90% of the monthly premium for the health insurance coverage which was in effect as of April 1, 1982, by Board resolution, including County payment of the first \$200 of major medical expense incurred by an insured during each deductible year.";

that on February 26, 1982, the County's Attorney responded by letter to the Union's Attorney's letter of February 24, 1982 and stated as follows:

"The County believes that it has fulfilled each legal obligation to your Union regarding the change in policy.

Moreover, the County continues to offer to bargain about the matter.

However, the Association has not, as of this time, persuaded the County to change its position.

"Should you have other arguments, or positions, or any other matters you wish to bargain about, please contact me.";

and that on or about March 18, 1982, the parties agreed to submit amended final offers.

11. That on April 1, 1982, the County implemented its insurance proposal which changed the carrier and affected the substance of its insurance plan for employees represented by the Union; and that as of April 1, 1982 the parties had not bargained to the point of impasse on the issue of health insurance.

12. That on January 18, 1983, the Union submitted an amended final offer; and that on March 4, 1983, the Union again amended its final offer to include at this time a health insurance proposal identical to that proposed by the County.

On the basis of the above and foregoing Findings of Fact, the Examiner makes the following

CONCLUSION OF LAW

1. That the Respondent, Green County, by unilaterally implementing on April 1, 1982 a change in the health insurance plan for bargaining unit employees without previously bargaining to impasse over same, has interfered with the rights of employees guaranteed them under Section 111.70(2) and has breached its duty to bargain in violation of Sections 111.70(3)(a)1 and 4 of MERA.

On the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Examiner makes the following

ORDER 1/

IT IS ORDERED that Respondent, Green County, its officers and agents, shall immediately:

1. Cease and desist from unilaterally changing the health insurance plan covering bargaining unit employees without first bargaining with the Union to the point of impasse over same.

1/ Any party may file a petition for review with the Commission by following the procedures set forth in Sec. 111.07(5), Stats.

Section 111.07(5), Stats.

(5) The commission may authorize a commissioner or examiner to make findings and orders. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner, the time for filing petition with the commission shall run from the time that notice of

continued on page 5

2. Take the following affirmative action which the Examiner finds will effectuate the policies of the Municipal Employment Relations Act:

a. Make all bargaining unit employees whole for any out of pocket losses occasioned by the change in insurance plan between April 1, 1982 and March 4, 1983.

b. Notify all employees by posting in conspicuous places in its offices where bargaining unit employees are employed copies of the notice attached hereto and marked "Appendix A". That notice shall be signed by the County and shall be posted immediately upon receipt of a copy of this Order and shall remain posted for thirty (30) days thereafter. Reasonable steps shall be taken by the County to ensure that said notices are not altered, defaced or covered by other material.

c. Notify the Wisconsin Employment Relations Commission in writing, within twenty (20) days following the date of this Order, as to what steps have been taken to comply herewith.

Dated at Madison, Wisconsin this 26th day of August, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley
Lionel L. Crowley, Examiner

1/ (continued)

such reversal or modification is mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order, it may extend the time another 20 days for filing a petition with the commission.

APPENDIX "A"

Pursuant to an Order of the Wisconsin Employment Relations Commission, and in order to effectuate the policies of the Municipal Employment Relations Act, we hereby notify our employees that:

1. We will not, absent impasse, unilaterally change the health insurance plan for bargaining unit employees represented by the Green County Deputy Sheriff's Association.
2. We will make whole bargaining unit employees represented by the Green County Deputy Sheriff's Association for out of pocket losses due to the change of health plan incurred during the period April 1, 1982 through March 4, 1983 inclusive.
3. We will not in any other or related matter interfere with the rights of our employees, pursuant to the provisions of the Municipal Employment Relations Act.

By _____
for the Green County Board of Supervisors

Dated at _____, Wisconsin this ____ day of _____, 1983.

THIS NOTICE MUST BE POSTED FOR THIRTY (30) DAYS FROM THE DATE HEREOF
AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY MATERIAL.

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER

The issue raised by the Complaint is whether the County's unilateral implementation of changes in the health insurance plan for bargaining unit employees violated Secs. 111.70(3)(a)1 and 4 of MERA.

UNION'S POSITION:

The Union contends that health insurance coverage and benefits are mandatory subjects of bargaining and, by unilaterally changing existing health insurance benefits, an employer violates its duty to bargain in good faith. It points out that in the instant case, the County unilaterally changed health insurance benefits and coverage and it argues that the evidence does not establish that the parties had reached impasse on such changes prior to their implementation, hence the County failed and refused to bargain in good faith. It notes that, while the County had mentioned the insurance rates for 1982 would increase and had invited the Union to attend a meeting with the then present carrier, the County first proposed a change in health insurance carrier and benefits on December 14, 1981, some two months after the Union had filed a petition for arbitration pursuant to Sec. 111.77, Stats. It points out further that initially no date was set for implementation, and the parties had already scheduled a meeting for January 12, 1982, when on January 5, 1982, the County indicated its intent to implement the change effective February 1, 1982. It asserts that, while the County offered to bargain the issue, such offer was a meaningless, empty and transparent charade as the County had adopted a Boulwar approach to bargaining and was determined to implement its position despite its offer to bargain. In support of its argument, the Union refers to the January 12, 1982 meeting where the change in health insurance was discussed for the very first time. It alleges that on this date, the health insurance issue was discussed along with other issues and the Union demonstrated flexibility on the issue. The Union contends that additional flexibility was shown by it in its initial "Final Offer" submitted on February 12, 1982, which included a change in its position on health insurance. It argues that the County's bad faith is evidenced by the passage of a Resolution on February 9, 1982 to implement the change in insurance and its February 12, 1982 cancellation of the existing insurance coverage despite the Union's formal objection to such action. Additionally, it argues that as of February 12, 1982, the County had not clearly articulated its final offer. The Union takes the position that the County's actions constituted a failure and refusal to bargain.

The Union further contends that, whether the parties were at impasse or not, the County engaged in self-help in derogation of the dispute resolution mechanism mandated by Sec. 111.77, Stats. It argues that Section 111.77 is the exclusive method of resolving disputes that arise in bargaining and takes away the right of either party to engage in self-help, as they must utilize the statutory arbitration procedures to resolve disputes. It maintains that the County has a duty to maintain the status quo until agreement is reached or an arbitration award issued.

As a remedy, the Union asks that the status quo be reinstated and employees be made whole for any losses they have incurred along with any other appropriate remedies.

COUNTY'S POSITION:

The County contends that it fulfilled its obligation to bargain prior to its implementation of the insurance changes and that Sec. 111.77, Stats., does not restrict its rights to implement changes in such circumstances. The County argues that the parties were at impasse as of April 1, 1982 as there was no realistic prospect that continued discussions would have been fruitful. It points to the Union's failure to respond to its offers to bargain these changes which it made on December 14, 1981 and January 5, 1982. It notes that the Union's first reply was at the January 12, 1982 meeting where offers and counteroffers were made

but were rejected. It argues that, while the Union objected to County's implementation, the Union made no further counterproposals or arguments on the County's proposal despite the County's repeated offers to bargain on the subject and, therefore, impasse existed or the Union waived its right to bargain by inaction.

The County maintains that Sec. 111.77, Stats., does not bar it from implementing a change in wages, hours, or working conditions after it has bargained the issue in good faith to the point of impasse. It notes that Sec. 111.77(1)(d) provides that the duty to maintain existing terms and conditions continues only for 60 days after notice is given to modify the contract, or until expiration of the contract, whichever occurs later, and the April 1, 1982 implementation met this requirement. It further points out that Sec. 111.70(4)(jm), Stats., was passed by the legislature on the same day in the same session as Sec. 111.77, and Sec. 111.70(4)(jm)13 states that neither party may unilaterally alter any mandatory subject of bargaining after a petition for final and binding arbitration has been filed. It concludes that the legislature did not intend the same restriction be applied to Sec. 111.77, otherwise it would have expressly so provided and, therefore, Sec. 111.77 does not prohibit post expiration implementation.

The County further asserts that prohibiting implementation subsequent to the filing of a petition would produce a greater restriction on the County's rights after expiration than during the contract term. It notes that matters not covered by the agreement can be implemented during the term after bargaining to impasse. It argues that such a prohibition would have the practical effect of continuing a contract term beyond three years in violation of Sec. 111.70(3)(a)4.

The County argues that, should it be determined that Sec. 111.77 prohibits post-petition implementation, then the appropriate remedy should be left to the arbitrator as the arbitrator can apply whatever offer is adopted retroactively and, therefore, no remedy in addition to Sec. 111.77 should be directed.

DISCUSSION:

As a general rule, an employer may not make a change in a mandatory subject of bargaining without first negotiating such change with the exclusive bargaining agent. 2/ However, where the employer has bargained to the point of impasse over a mandatory subject, it can unilaterally implement same. 3/ The parties agree with the above principles and have stipulated that the changes in health insurance on April 1, 1982 involved a mandatory subject of bargaining. 4/ The parties differ with respect to whether an impasse was reached prior to the implementation of the change on April 1, 1982, with the County contending that impasse existed, and the Union arguing that no impasse had been reached. Whether an impasse exists must be determined in the context of the facts in a particular case, as they exist at a particular point in time. 5/

"Whether a bargaining impasse exists is a matter of judgment. The bargaining history, the good faith of the parties in negotiations, the length of the negotiations, the importance of the issue or issues as to which there is disagreement, the contemporaneous understanding of the parties as to the state of negotiations, are all relevant factors to be considered in deciding whether an impasse in bargaining existed. 6/

2/ Madison Jt. School District No. 8, (12610) 4/76; City of Madison, (15095) 12/76; NLRB v. Katz, 369 U.S. 736, 82 S.Ct. 203, 8 L.Ed. 2d 1107 (1962).

3/ Winter Jt. School District No. 1, (14482) 3/77.

4/ TR-9.

5/ Village of West Milwaukee (Fire Department), 17927-A (9/80).

6/ Taft Broadcasting Co., 163 NLRB 475, 64 LRRM 1386 (1967).

A review of the evidence reveals that on August 14, 1981, the Union gave notice of its intent to negotiate terms of a successor agreement, and the parties held their first negotiating session on September 16, 1981 at which the Union submitted a number of proposals, including one on health insurance which continued the present health plan but demanded that the County pay the full premium for employees working 40 hours a week. The parties held a second negotiating session on October 7, 1981 at which the Union submitted some additional proposals, and the County submitted proposals on several items. On health insurance, the County proposed no change in the then present contractual language. At this meeting, the County informed the Union of the proposed 1982 rates for health insurance and invited the Union to attend a meeting with the carrier. The Union did not attend the meeting. On October 19, 1981, the Union filed a petition with the Commission for final and binding interest arbitration, and the Investigator for the Commission scheduled a meeting with the parties for January 12, 1982. It was not until December 14, 1981 that the County first proposed to change its health insurance carrier and coverage and, while it offered to bargain the change, it did not indicate any dates of availability earlier than January 12, 1982. By a letter dated December 22, 1981, it informed the investigator of its health insurance proposal but again indicated no dates of availability prior to January 12, 1982. In its December 14, 1981 proposal, the County indicated that it wished to implement the change as soon as possible and, on January 5, 1982, it informed the Union that it intended to implement this change effective February 1, 1982. At this point in time, the parties had not even met to discuss the County's new proposal. Additionally, this was only one of several open issues, and the County's notice of implementation before any discussions had taken place was indicative of a determination to implement its proposal without regard to the status of negotiations.

The parties met on January 12, 1982 and several items were discussed including the parties' respective health insurance proposals. Both parties modified their proposals, with the Union indicating that it could go along with the change in carrier and coverage, provided the County would pay the entire premium, and the County proposing to pay the first \$200.00 of co-insurance. While this meeting produced no agreement on the health insurance issue, it cannot be concluded that the parties thoroughly exhausted the prospects of reaching an agreement on the issue. On January 18, 1982, the Union objected to the County's implementation of its health insurance proposal and indicated that the subject would be addressed in future collective bargaining. The County responded that it was available to bargain the change but intended to implement its proposal presently but not before March 1, 1982. On January 26, 1982, the Investigator confirmed that final offers were to be submitted by February 12, 1982 and an investigation session would be held on March 16, 1982. On February 9, 1982, the County passed a resolution to implement the change in health insurance effective March 1, 1982 and on February 12, 1982 cancelled its old insurance plan. The Union's initial final offer, submitted on February 12, 1982, included a health insurance proposal to maintain the present level of benefits with employees contributing \$12.50 per month toward the premium. On February 24, 1982, the Union again objected to any unilateral change in health insurance. The County submitted its initial final offer on February 26, 1982, which provided for health insurance as per its last offer made on January 12, 1982. The evidence does not establish whether the parties met on March 16, 1982, but on or about March 18, 1982, the parties agreed to submit amended final offers. The County implemented the change in health insurance on April 1, 1982, and thereafter the parties submitted additional final offers including one dated March 4, 1983 wherein the Union's proposal on health insurance was identical to the County's February 26, 1982 proposal.

Based on the above sequence of events, the Examiner concludes that the parties were not at impasse on the issue of health insurance when the County implemented its proposal on April 1, 1982. The County's proposal was made relatively late in the negotiations, almost two months after the petition for interest arbitration was filed. There was apparently no prior urgency in meeting as the January 12, 1982 meeting had been scheduled by the Investigator back on November 11, 1981. A change in insurance carrier and benefits involves a certain amount of study and judgment with respect to a comparison of benefits, cost, and the reputation of the carrier for good administration, including prompt payment

and settlement of claims. It must be noted that the County passed a resolution 7/ in December 1981, changing insurance for non-represented employees, so it must have given this subject some thought and study prior to the resolution, yet no notice was given to the Union that the County was contemplating any change in health insurance until December 14, 1981. While the County indicated an urgency in its proposal, it did not demonstrate that it could have met earlier than January 12, 1982. The meeting on January 12, 1982 indicated flexibility on the Union's part, as did its initial final offer on February 12, 1982. The parties were to meet again, and on or about March 18, 1982, they agreed to submit a different final offer. While there were delays in the implementation date of the change in health insurance, the Examiner is not convinced that these were due to progress, or lack thereof, in negotiations with the Union. Given the lateness of the County's proposal, the continuing flexibility shown by the Union, and discussion on it limited to only the January 12, 1982 bargaining session, in the judgment of the Examiner, it cannot be concluded that further bargaining would have been fruitless or that the parties were deadlocked on this issue when the County unilaterally changed carrier and coverage on April 1, 1982.

The County's contention that the Union waived its right to bargain on the issue of health insurance is without merit. The evidence must prove a clear and unmistakable waiver. 8/ The Union gave notice of reopening the agreement and formally proposed a change in the health insurance provision, hence there was a demand with respect to bargaining on the issue. The Union did not have to demand bargaining anew when the County submitted a new health insurance proposal. The parties negotiated on the issue on January 12, 1982, and the Union submitted proposals on January 12 and February 12, 1982. Under these circumstances, the evidence fails to establish that the Union waived its rights to bargain on this issue. 9/

The County failed to prove that there were circumstances present which called for immediate action, such as the carrier having cancelled its contract with the County, or that all other employees had agreed to a change to a different carrier and plan effective on a date certain, thereby making it economically unfeasible to retain the present group plan for a small group of employees. The only defense offered by the County was that the present plan was more expensive than the new plan and savings would result with a timely change. The Examiner is not persuaded by this argument. The economic savings relied on by the County in this case did not provide a sufficient basis to abrogate the County's duty to bargain in good faith to the point of impasse before unilaterally implementing a mandatory subject of bargaining. 10/ The County's argument that its refusal to make any concession in its health insurance proposal did not constitute bad faith bargaining is well taken as this was hard bargaining; however, a non-compromising position on a proposal by only one party does not require a conclusion that the parties are at impasse on the issue. The Examiner concludes that the County refused to bargain in good faith by unilaterally implementing its health insurance proposal on April 1, 1982 without first bargaining same to the point of impasse, and thereby violated Secs. 111.70(3)1 and 4 of MERA.

Inasmuch as the Examiner has found that the parties were not at impasse when the County implemented its health insurance proposal, it is not necessary to determine what, if any, effect Section 111.77, Stats., has on post-petition unilateral implementation after impasse has been reached.

7/ Ex-21.

8/ City of Milwaukee, (13495) 4/75; City of Menomonie, (12674-A, B) 10/74.

9/ Marinette School District, (19542-B) 6/83.

10/ Turtle Lake School District, (18198-A) 9/81.

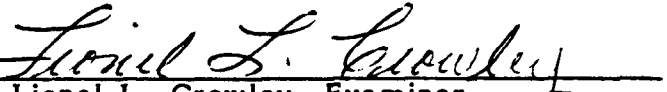
REMEDY:

The Examiner has issued a make-whole order for out-of-pocket losses incurred due to the County's unilateral change in the insurance plan because the County's actions constituted a diminution of benefits to bargaining unit employees. 11/ The Examiner has not ordered a return to the status quo on health insurance inasmuch as the parties have reached a tentative agreement as of March 4, 1983 on the already implemented health insurance plan. The Examiner also deems that the make-whole order should be limited to that date as the parties had then bargained the issue to agreement. 12/ The Examiner has rejected the County's argument that the interest arbitration would provide the appropriate remedy because the parties are no longer in dispute on the issue of health insurance, hence any decision by the Arbitrator would provide no remedy for the County's improper unilateral action. In addition to the make-whole order, the Examiner finds that an order to cease and desist, along with posting of an appropriate notice, best effectuates the purposes of the Municipal Employment Relations Act.

Dated at Madison, Wisconsin this 26th day of August, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Lionel L. Crowley, Examiner

11/ Winter Jt. School District No. 1, (14482-B) 3/77.

12/ Id.