

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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ROGER THOMPSON,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case X
	:	No. 31043 MP-1432
SCHOOL DISTRICT OF CLAYTON AND	:	Decision No. 20477-A
CLAYTON PROFESSIONAL EDUCATORS,	:	
	:	
Respondents.	:	
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ORDER DENYING MOTION FOR SUMMARY JUDGEMENT

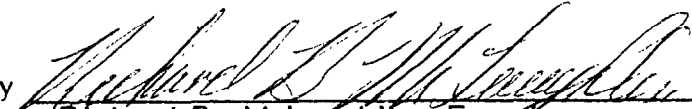
Mr. Roger Thompson filed a prohibited practice complaint with the Wisconsin Employment Relations Commission on January 20, 1983, in which he alleged that the School District of Clayton (the District) and Clayton Professional Educators (CPE) committed certain prohibited practices within the meaning of Sections 111.70(3)(a) 1, 2, 3, and 111.70(3)(b)1, and 3. The District and CPE filed answers to the complaint by April 18, 1983. The Commission, on March 30, 1983, appointed Richard B. McLaughlin, a member of its staff, to act as Examiner in the matter. Hearing on the matter has been scheduled for May 5, 1983. CPE, on March 30, 1983, filed a motion for summary judgement, and a brief in support of that motion. On April 19, 1983, the District and Mr. Thompson filed responses to CPE's motion. Having considered the arguments of the parties, the Examiner issues the following

ORDER

The Motion for Summary Judgement is denied.

Dated at Madison, Wisconsin this 27th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Richard B. McLaughlin, Examiner

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION FOR SUMMARY JUDGEMENT

CPE urges that the complaint is untimely, meritless, or both, and calls particular attention to the presence of contractual provisions allowing grievances to be asserted by individual teachers. The District supports CPE's motion, and urges that the complaint is barred by the statute of limitations contained in Section 111.07(14), Wis. Stats. Mr. Thompson notes that CPE's answer denies certain facts alleged in his complaint, and asserts a hearing is necessary to resolve the dispute.

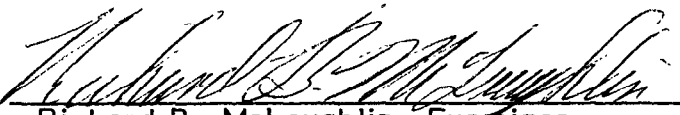
Whether the complaint is barred by the statute of limitations contained in Sections 111.07(14) and 111.70(4)(a) cannot be authoritatively resolved on the present record. The complaint does not allege that the District or CPE violated the collective bargaining agreement which contains the grievance procedure noted above. The complaint does, however, allege that CPE and the District "have engaged in and are engaging in unfair labor practices" involving the statutory sections listed above, and does question behavior which could, arguably, have occurred within the time period specified in Section 111.07(14). It cannot, then, be said that the sole reasonable inference to be drawn from the record is that the complaint is barred by Section 111.07(14).

Similar considerations apply to CPE's assertion that the complaint is meritless. CPE has denied the factual allegations contained in the complaint at V, VI, VII and VIII(a), as well as the conclusions drawn at IX. The factual allegations of the complaint may be sketchy, but it cannot be said that the sole reasonable inference to be drawn from them is that Respondents are entitled to a judgement in their favor.

The motion for summary judgement has, then, been denied. Final resolution of the complaint's timeliness or merit must await argument and evidence which can most expeditiously be obtained by going forward with the scheduled hearing.

Dated at Madison, Wisconsin this 27th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Richard B. McLaughlin, Examiner