

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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THOMAS L. SCHROEDER, :  
 :  
Complainant, :  
 :  
vs. : Case 191  
 : No. 31650 PP(S)-98  
STATE OF WISCONSIN, DEPARTMENT : Decision No. 20909-A  
OF EMPLOYMENT RELATIONS, :  
 :  
Respondent. :  
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ORDER GRANTING MOTION TO DISMISS

The above-named Complainant having, on May 31, 1983, filed a complaint of unfair labor practices with the Wisconsin Employment Relations Commission; and the Commission having appointed the undersigned to act as Examiner in the matter; and the Respondent having filed a Motion to Dismiss on July 15, 1983; and subsequently, on August 17, 1983, the Complainant having filed a Memorandum in Opposition to Motion to Dismiss; and hearing having been held at Madison, Wisconsin, on January 27, 1984, at which time Respondent and Complainant made oral arguments in support of and in opposition to the Motion to Dismiss, and no evidence having been presented at the hearing by either the Complainant or the Respondent on the allegations contained in the complaint; and the Examiner having considered the arguments of both sides with respect to the Motion to Dismiss; and the Examiner being fully advised in the premises, makes and issues the following

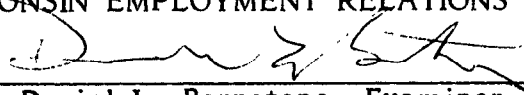
ORDER 1/

That the Motion to Dismiss be, and the same hereby is, granted.

Dated at Madison, Wisconsin this 7th day of March, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Daniel L. Bernstone, Examiner

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 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.

DEPARTMENT OF EMPLOYMENT RELATIONS (BLUE COLLAR NON-BUILDING TRADES)

MEMORANDUM ACCOMPANYING ORDER  
GRANTING MOTION TO DISMISS


The complaint alleges facts relating to the Complainant's discharge from his employment with the State of Wisconsin. The discharge occurred on October 5, 1979. Complainant, on November 30, 1979, filed a complaint with the Wisconsin Employment Relations Commission as a result of his discharge. That complaint was dismissed without prejudice on August 4, 1980. 2/ The instant complaint also concerns events surrounding his October 5, 1979, discharge. At the hearing held in the instant case on January 27, 1984, the Complainant was granted full opportunity to present his case on the merits, but merely briefly argued in opposition to the Respondent's Motion to Dismiss. No evidence whatsoever was presented by Complainant, either with respect to the Motion to Dismiss or the allegations contained in the complaint. Respondent then rested its case on the basis of its arguments in support of the Motion to Dismiss, central among which was its contention that the Wisconsin Employment Relations Commission is without statutory authority under Sec. 111.07(14) as incorporated by Sec. 111.84(4), Stats., to assert jurisdiction over a complaint alleging acts or unfair labor practices which occurred beyond a year of the date on which the complaint is filed with the Commission.

The Examiner has granted Respondent's Motion to Dismiss on the ground that the acts alleged to have constituted unfair labor practices occurred over three and one-half years prior to the date on which the instant complaint was filed, therefore precluding the Commission from asserting jurisdiction herein.

Dated at Madison, Wisconsin this 7th day of March, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Daniel L. Bernstone, Examiner

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2/ Decision No. 17495-F.