

KAL LARSON,

Complainant,

vs.

WEST ALLIS-WEST MILWAUKEE
EDUCATIONAL ASSOCIATION and
SCHOOL DISTRICT OF WEST
ALLIS-WEST MILWAUKEE,

Respondents.

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Complainant, having filed on January 9, 1984, an Application to Take the Deposition and to subpoena documents in the possession, custody and control of a potential witness, Stephen Pieroni; and Respondents having filed responses to said application on January 19 and 24, 1984, in which Respondent District takes no position and Respondent Association opposes said application on the grounds of time and expense which would be incurred, and the undersigned Examiner having considered the arguments of the parties, hereby denies said application to take deposition on the grounds that no good cause has been shown as to why a deposition is appropriate in this matter pursuant to ERB 10.15;

ORDERED

Dated at Madison, Wisconsin this 2nd day of February, 1984.

By Mary Jo Schiavoni
Mary Jo Schiavoni, Examiner

MEMORANDUM ACCOMPANYING ORDER DENYING
APPLICATION TO TAKE DEPOSITION

While it is true that the Commission has the discretion to allow for the taking of depositions in prohibited practice proceedings as set out in Section 111.07(2)(b), Wis. Stats.; it will not ordinarily grant such requests except for good cause shown. 1/ The Examiner, in view of the time and expense involved, does not believe that good cause has been demonstrated sufficient to warrant the taking of depositions. Complainant has not demonstrated that Mr. Pieroni or the documents in his possession are unavailable to appear or be produced at the hearing in this matter nor are the documents or witness beyond the reach of a subpoena. Moreover, Complainant has not demonstrated that the instant case is so complex as to warrant pre-hearing discovery to avoid a protracted hearing. Complainant's Application to Take a Deposition is accordingly denied.

Inasmuch as Complainant has not completed its case in chief with respect to the additional allegations set forth in its second amended complaint, Respondent Association's argument as to the propriety of calling Mr. Pieroni as a witness at hearing will be ruled upon at the resumed hearing on this matter.

Complainant may, however, request a subpoena for Mr. Pieroni's presence at the resumption of the hearing on February 7, 1984.

Dated at Madison, Wisconsin this 2nd day of February, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Mary Jo Schiavoni
Mary Jo Schiavoni, Examiner

1/ Browne et. al. v. Milwaukee Board of School Directors, et al, 18408-A
(10/81).