

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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| TERRY L. DIEHN,             | : |                      |
|                             | : |                      |
| Complainant,                | : |                      |
|                             | : |                      |
| vs.                         | : | Case II              |
|                             | : | No. 32571 Ce-1991    |
|                             | : | Decision No. 21262-B |
| INTERNATIONAL BROTHERHOOD   | : |                      |
| OF TEAMSTERS, LOCAL 354 and | : |                      |
| INDUSTRIAL PLASTICS, INC.,  | : |                      |
|                             | : |                      |
| Respondents.                | : |                      |
|                             | : |                      |

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ORDER DISMISSING COMPLAINT OF UNFAIR LABOR PRACTICES  
UPON RESPONDENT'S PERFECTING REMOVAL TO  
FEDERAL DISTRICT COURT

Terry L. Diehn having, on December 12, 1983, filed a complaint with the Wisconsin Employment Relations Commission alleging that International Brotherhood of Teamsters, Local 354, and Industrial Plastics, Inc., had committed certain unfair labor practices within the meaning of Sec. 111.06(1)(f) of the Wisconsin Employment Peace Act by the Respondent-Teamsters Local 354's refusal to fairly represent him and by the Respondent-Company's wrongfully discharging him; and the Commission having, on December 22, 1983, appointed Lionel L. Crowley, a member of its staff, as Examiner to make and issue Findings of Fact, Conclusions of Law and Order pursuant to Sec. 111.07, Stats.; and the Examiner having scheduled the matter for hearing to be held on January 5, 1984, at the City Hall in Wisconsin Rapids, Wisconsin; and prior to any further action by the Examiner, Respondent-Teamsters Local 354, by Counsel, having, on January 3, 1984, filed a Petition for Removal of the proceedings to the United States District Court, Western District of Wisconsin alleging therein that the Respondent may remove, as a matter of right, the proceeding before the Commission to the Federal District Court pursuant to 28 U.S.C., Sec. 1441; and Respondent-Industrial Plastics, Inc., having joined in said Petition for Removal; and the Examiner being satisfied that the Respondents perfected such removal of the proceedings to the Federal District Court and further being satisfied that this Commission is ousted from jurisdiction in the instant proceedings with the commencement of a Sec. 301 action in Federal District Court, involving matters complained of in this proceeding, pursuant to 28 U.S.C., Sec. 1441;

NOW, THEREFORE, it is

ORDERED 1/

That the complaint of unfair labor practices filed herein be, and the same hereby is, dismissed.

Dated at Madison, Wisconsin this 19th day of June, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley  
 Lionel L. Crowley, 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.

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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.