

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE DISTRICT COUNCIL 48,
AFSCME, AFL-CIO,

Complainant,

vs.

MILWAUKEE COUNTY,

Respondent.

Case CXC
No. 33229 MP-1594
Decision No. 21732-A

Appearances:

Mr. Alvin R. Ugent, Podell, Ugent & Cross, S.C., Attorneys at Law,
207 East Michigan Street, Suite 315, Milwaukee, Wisconsin 53202,
appearing on behalf of Milwaukee District Council 48, AFSCME,
AFL-CIO.

Mr. Robert G. Ott, Principal Assistant Corporation Counsel, Milwaukee
County, Milwaukee County Courthouse, Room 303, Milwaukee, Wisconsin
53233, appearing on behalf of Milwaukee County.

PRELIMINARY FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Milwaukee District Council 48, AFSCME, AFL-CIO, having, on April 27, 1984, filed a complaint with the Wisconsin Employment Relations Commission alleging that Milwaukee County had committed prohibited practices within the meaning of the Municipal Employment Relations Act (MERA); and the Commission, on June 4, 1984, having appointed Richard B. McLaughlin, a member of its staff, to act as an Examiner as provided in Sec. 111.70(4)(a) and Sec. 111.07 of the Wisconsin Statutes; and a hearing having been scheduled for July 11, 1984, at Milwaukee, Wisconsin; and representatives for Milwaukee District Council 48 and Milwaukee County having reached a stipulation regarding the above-noted complaint on July 11, 1984; and, based upon the stipulations of the parties and on the record as presently developed, the Examiner makes the following

PRELIMINARY FINDINGS OF FACT

1. That Milwaukee District Council 48, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization which has its offices located at 3427 West St. Paul Avenue, Milwaukee, Wisconsin 53208.

2. That Milwaukee County, hereinafter referred to as the County, is a municipal employer which has its offices located at 901 North Ninth Street, Milwaukee, Wisconsin 53233, and which, among its various functions, operates a Department of Public Works.

3. That, on April 27, 1984, the Union filed a complaint with the WERC which contained, among others, the following allegations:

5. That commencing January 10, 1982 and continuing thereafter to the present, Respondent has refused, neglected and failed to comply with the terms and requirements of the contractual grievance procedure required by the said collective bargaining agreement. That said grievance procedure violations are as follows:

A. Failure to conduct necessary grievance hearings as required by the contract.

B. Failure to provide timely answers to grievances at various steps.

C. Failure to comply with the decision of Arbitrator, Marshall Gratz (Permanent Umpire) dated August 16, 1980 since the date of said award and continuing to the present date.

D. Failure to comply with Settlement Agreement made in WERC Case No. MP-1439 wherein Respondent agreed to fully comply with all of the grievance steps and timeliness requirements of the parties labor agreement.

4. That hearing on the complaint noted in Finding of Fact 3 above was scheduled for July 11, 1984; that prior to the commencement of the July 11, 1984, hearing, the Union and the County entered into discussions regarding resolving the issues raised by the Union's complaint of April 27, 1984; that, as a result of these discussions, the Union and the County did reach a stipulation; that, after the stipulation had been reached, the hearing was called to order on July 11, 1984, and the stipulation was formally stated and transcribed; that this stipulation reads, in part, as follows:

MR. OTT: Stipulation has been reached between the parties whereby we are requesting the WERC to issue an order in accordance with said stipulation, and once that order is complete, it include a dismissal of this prohibited practices charge. The stipulation is as follows: Milwaukee County, and specifically its Department of Public Works, agrees to follow all procedures in part 4 of the Memorandum of Agreement relative to grievances, and specifically all time limits contained therein. Further, the Department of Public Works will meet with the appropriate union representatives on or before August 10, 1984 to attempt to resolve all outstanding grievances within the jurisdiction of the Department of Public Works.

MR. UGENT: Okay. I think the only thing I would add is even though the Unfair Labor Practice case is dismissed, that the order you make will survive the dismissal of the case.

MR. OTT: I'll solve that. Add this to the stipulation: In the event that either party fails to comply with this stipulation or order, it is agreed that the WERC, in this particular case, maintain jurisdiction for the reopening of the hearing.

MR. UGENT: Okay.

and that after the stipulation was read into the record, the Examiner closed the hearing.

Based upon the above and foregoing Preliminary Findings of Fact, the Examiner makes and issues the following

PRELIMINARY CONCLUSIONS OF LAW

1. That Milwaukee District Council 48, AFSCME, AFL-CIO, is a "Labor organization" within the meaning of Sec. 111.70(1)(j) of MERA.

2. That Milwaukee County is a "Municipal employer" within the meaning of Sec. 111.70(1)(a) of MERA.

Based upon the above and foregoing Preliminary Findings of Fact and Conclusions of Law, and being convinced that the above-noted stipulation can preclude lengthy and potentially unnecessary litigation, the Examiner issues the following

ORDER

That Milwaukee County, and specifically its Department of Public Works shall follow all procedures in Part 4 of the Memorandum of Agreement relative to grievances, and specifically all time limits contained therein.

That the Department of Public Works shall meet with the appropriate Union representatives on or before August 10, 1984, to attempt to resolve all outstanding grievances within the jurisdiction of the Department of Public Works.

That, upon completion of the affirmative action noted above, which the Examiner finds will effectuate the policies of the Municipal Employment Relations Act, the Examiner will dismiss the complaint filed by the Union on April 27, 1984; but that in the event that either party fails to comply with the stipulation noted above or the Examiner's Order, the Examiner will, upon appropriate request, reopen the hearing.

Dated at Madison, Wisconsin this 30th day of July, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Richard B. McLaughlin
Richard B. McLaughlin, Examiner