STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE DISTRICT COUNCIL 48, AFSCME, AFL-CIO, and KIM L. FRION, JANICE SMOKOVICH, CURRIE THOMAS, SHIRLEY HOEFT, and INGRID FACEY,	
Complainants,	Case CLXIV No. 30636 MP-1409
vs.	Decision No. 21742
MILWAUKEE COUNTY and MILWAUKEE COUNTY PERSONNEL REVIEW BOARD,	
Respondents.	

Appearances:

Podell, Ugent & Cross, S.C., Attorneys at Law, 207 East Michigan Street, Milwaukee, Wisconsin 53202, by Ms. Nola J. Hitchcock-Cross, appearing on behalf of the Complainants.

Mr. Robert G. Ott, Principal Assistant Corporation Counsel, Milwaukee County Courthouse, 901 North 9th Street, Room 303, Milwaukee, Wisconsin 53233, appearing on behalf of the Respondents.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Milwaukee District Council 48, AFSCME, AFL-CIO, and Kim L. Frion, Janice Smokovich, Currie Thomas, Shirley Hoeft and Ingrid Facey having, on November 15, 1982, filed a complaint with the Wisconsin Employment Relations Commission, alleging that the Milwaukee County and the Milwaukee County Personnel Review Board had committed prohibited practices within the meaning of the Municipal Employment Relations Act, herein MERA; and the parties having engaged in an unsuccessful settlement conference on February 21, 1983; and the Commission having, on March 8, 1983, appointed Lionel L. Crowley, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5), Wis. Stats.; and the parties having, on August 11, 1983, waived hearing in the matter and stipulated to issues, facts and exhibits; and briefs having been filed by both parties; and the Examiner having closed the record on March 26, 1984; and the Examiner having considered the record, briefs and arguments of the parties, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

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

2. That Complainants Kim L. Frion, Janice Smokovich, Currie Thomas, Shirley Hoeft and Ingrid Facey are individuals who reside in or about Milwaukee, Wisconsin.

3. That Milwaukee County, hereinafter referred to as the County, is a municipal employer within the meaning of Sec. 111.70(1)(a), Stats., and has its principal offices located at the Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, Wisconsin 53233.

4. That the Milwaukee County Personnel Review Board, hereinafter referred to as the Board, was established, pursuant to Chapter 33 of the General Ordinances of Milwaukee County, to administer the quasijudicial duties formerly performed by the Milwaukee County Civil Service Commission as they relate to the discipline and

discharge of County employes and the hearing of appeals of certain grievances in a fair and impartial manner as set forth in Secs. 63.10 and 63.12, Stats.; and its principal offices are located at 901 North 9th Street, Milwaukee, Wisconsin. 53233.

5. That at all times material herein, the Union has been the certified collective bargaining representative of certain employes in the employ of the County, and in that regard, the Union and the County have been parties to a collective bargaining agreement, at all times material herein, which contains the following provisions:

PART 1

1.01 RECOGNITION. The County of Milwaukee agrees to recognize and herewith does recognize Milwaukee District Council 48, American Federation of State, County and Municipal Employes, AFSCME, AFL-CIO, and its appropriate affiliated Locals, as the exclusive collective bargaining agent on behalf of the employes of Milwaukee County in accordance with the certification of the Wisconsin Employment Relations Commission, as amended, in respect to wages, hours and conditions of employment, pursuant to Subchapter IV, Chapter 111.70, Wis. Stats., as amended.

. . .

1.03 NONDISCRIMINATION. The County shall not discriminate in any manner whatsoever against any employe or applicant for employment because of race, sex, age, nationality, handicap, political or religious affiliation or marital status.

. . .

1.05 MANAGEMENT RIGHTS. The County of Milwaukee retains and reserves the sole right to manage its affairs in accordance with all applicable laws, ordinances, regulations and executive orders. Included in this responsibility, but not limited thereto, is the right to determine the number, structure and location of departments and divisions; the kinds and number of services to be performed; the right to determine the number of positions and the classifications thereof to perform such service; the right to direct the work force; the right to establish qualifications for hire, to test and to hire, promote and retain employes; the right to transfer and assign employes, subject to existing practices and the terms of this Agreement; the right subject to civil service procedures and the terms of this Agreement related thereto, to suspend, discharge, demote or take other disciplinary action and the right to release employes from duties because of lack of work or lack of funds; the right to maintain efficiency of operations by determining the method, the means and the personnel by which such operations are conducted and to take whatever actions are reasonable and necessary to carry out the duties of the various departments and divisions.

. . .

PART 4

4.01 RESOLUTION OF DISPUTES. The disputes between the parties arising out of the interpretation, application or enforcement of this Memorandum of Agreement, including employe grievances, shall be resolved in the manner set forth in the ensuing sections.

4.02 GRIEVANCE PROCEDURE

(1) APPLICATION: EXCEPTIONS. A grievance shall mean any controversy which exists as a result of an unsatisfactory adjustment or failure to adjust a claim or dispute by an employe or group of employes concerning the application of

wage schedules or provisions relating to hours or work and working conditions. The grievance procedure shall not be used to change existing wage schedules, hours of work, working conditions, fringe benefits and position classifications established by ordinances and rules which are matters processed under other existing procedures.

. . .

4.06 DISCIPLINARY SUSPENSIONS NOT APPEALABLE UNDER S. 63.10, WIS. STATS.

(1) In cases where an employe is suspended for a period of 10 days or less by his/her department head, pursuant to the provisions of sec. 63.10, Wis. Stats., the Union shall have the right to refer such disciplinary suspension to the permanent umpire who shall proceed in accordance with the provisions of sec. 4.05(3)(a). Such reference shall in all cases be made within 60 working days from the effective date of such suspension. The decision of the umpire shall be served upon the Department of Labor Relations and the Union. In such proceedings the provisions of sec. 4.05(3)(c) shall apply.

. . .

4.08 REOPENER CONTINGENT UPON AMENDMENTS TO CHAPTER 63, WIS. STATS.

(1) In the event that Chapter 63 of the Wis. Stats. is amended during the term of this Agreement to permit the supspension (sic) and discharge of classified employes to be treated in a manner jointly determined by municipal employers and labor organizations and/or to amend the definition of probationary service as it relates to temporary service, then this Memorandum of Agreement may be reopened. Such reopening shall be for the singular purpose of either negotiating procedures for the review of suspension and discharge as alternatives to those procedures presently provided in Chapter 63.10, Wis. Stats., or modifiying the definition of probationary service. Such negotiations will be consistent with the Wis. Stats. and the regulations of the Wisconsin Employment Relations Commission.

(2) If it is determined by a tribunal of competent jurisdiction that discipline and discharge of employes of Milwaukee County is a mandatory subject of bargaining, the parties will reopen this Agreement within 30 days of receipt of such order for the purpose of negotiating those issues which are a proper subject for co-determination relating thereto. However, in the event the parties are unable to reach agreement, the provisions of s. 63.10, Wis. Stats., shall apply.

and that Chapter 63, Stats., provides in material part as follows:

63.02 Rules; secretary; employes; offices. (1) Such commissioners, as soon as possible after their appointment and qualification, shall prepare and adopt such rules and regulations to carry out the provisions of ss. 63.01 to 63.16 as in their judgment shall be adapted to secure the best service for the county in each department affected by said sections, and as shall tend to promote expedition and speed the elimination of all unnecessary formalities in making appointments. Such rules shall be printed and distributed in such manner as reasonably to inform the public of the county as to their purpose, and shall take effect 10 days after they are published.

. . .

63.05 Certifications; examinations; preference to veterans; temporary appointments. (1) When any appointing power in any such county learns that a vacancy has occurred, or is about to occur in any office or position in the classified service in his department, he shall forthwith notify the chief examiner of such fact. When an eligible list (containing the names of persons who have, within a period of time to be specified in the rules of the commission, passed an examination appropriate to the office or position in question) is in existence, the chief examiner shall certify to the appointing power the names of the three persons standing highest on that list. If more than one vacancy in the same class or position is to be filled, one additional name shall be certified for each additional vacancy.

. . .

(4) If there is no such eligible list, the procedure shall be as follows: An examination shall be arranged for the earliest possible date to examine candidates relative to their fitness for said office or position. The time and place of such examination, together with the requirements of the position, and all other necessary information shall be sufficiently advertised by said commission in such manner as the commission shall by its rules determine as best suited to give notice of such examination.

(5) Pending the holding of such examination and the creation of an eligible list, the office or position in question may be filled temporarily by the appointing power, by an emergency appointment, subject to such rules and restrictions as the commission may adopt.

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63.07 Temporary appointments. (1)(a) When need exists for the filing of a position in the classified service for a period of not to exceed 6 months' duration, a temporary appointment shall be made for such period from the proper eligible list or as provided in s. 63.05(5). Such temporary appointment may be extended once for not to exceed 6 months by resolution of the county board after receipt by it of a recommendation for such extension from the civil service commission. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the eligible register for permanent employment nor shall the period of service of any temporary appointment be counted as a part of the probationary service required after appointment to a permanent position.

(b) This subsection shall apply to a position created on a temporary basis or to a temporary appointment to a position created on a permanent basis. As to either of such methods of filling a position which has existed for more than one year on June 19, 1941, the county board within 60 days after said date provide for filling such position on a permanent basis or abolish the same.

. . .

63.10 Demotion; dismissal; procedure. (1) Whenever a person possessing appointing power in the county, the chief executive office of a department, board or institution, the county park commission, county election commission, civil service commission, and county board of welfare as to officers and employes under their respective jurisdictions, believes that an officer or employe in the classified service in his or its department has acted in such a manner as to show him to be incompetent to perform his duties or to have merited demotion or dismissal, he or it shall report in writing to the civil service commission setting forth specifically his complaint, and may suspend

the officer or employe at the time such complaint is filed. It is the duty of the chief examiner to file charges against any officer or employe in the classified service upon receipt of evidence showing cause for demotion or discharge of such officer or employe in cases where a department head or appointing authority neglects or refuses to file such charges. Charges may be filed by any citizen against an officer or employe in the classified service where in the judgment of the commission the facts alleged under oath by such citizen and supported by affidavit of one or more witnesses would if charged and established amount to cause for the discharge of such officer or employe. The commission shall forthwith notify the accused officer or employe of the filing of such charges and on request provide him with a copy of the same. Nothing in this subsection shall limit the power of the department head to suspend a subordinate for a reasonable period not exceeding 10 days. In case an employe is again suspended within 6 months for any period whatever, the employe so suspended shall have the right of hearing by the commission on the second suspension or any subsequent suspension within said period the same as herein provided for in demotion or dismissal proceedings.

(2) The commission shall appoint a time and place for the hearing of said charges, the time to be within 3 weeks after the filing of the same, and notify the person possessing the appointing power and the accused of the time and place of such hearing. At the termination of the hearing the commission shall determine whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement, as it may deem requisite and proper under the circumstances and as its rules may provide. The decision of the commission shall be final. Neither the person possessing the appointing power nor the accused shall have the right to be represented by counsel at said hearing, but the commission may in its discretion permit the accused to be represented by counsel and may request the presence of an assistant district attorney at act with the commission in an advisory capacity.

6. That at all times relevant herein, the County has employed various individuals on emergency appointments, temporary appointments and regular appointments with a six month probationary period; and that at various times and for various reasons, the County has terminated said individuals without a hearing, and in many instances, without written reasons provided to the individual for said termination.

7. That Complainants Kim L. Frion, Janice Smokovich, Currie Thomas, Shirley Hoeft and Ingrid Facey were employes of the County by either a temporary appointment or an emergency appointment to a position in a bargaining unit represented by the Union; that said Complainants were terminated by the County for a variety of reasons, including absenteeism, or poor work performance or the return of the regular incumbent to the position upon the expiration of an educational leave; that the County denied each of the Complainants the right to process a grievance, pursuant to the contractual grievance procedure, on his/her discharge; and that the County did not afford said Complainants the right to a hearing before the Personnel Review Board, pursuant to the provisions of Sec. 63.10, Stats., before discharging them.

Upon the basis of the above and foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS OF LAW

1. That the parties' collective bargaining agreement does not provide that employes, including those on temporary or emergency appointments, may appeal their terminations through the contractual grievance procedure, and the County's denial of employes' processing grievances on their discharges does not violate Sections 111.70(3)(a)5 and 1 or 111.70(3)(c) of MERA.

2. That the County has not violated the parties' collective bargaining agreement, particularly Sec. 1.05, by its refusal to utilize the provisions of Sec. 63.10, Stats. (i.e. filing of charges, notice of filing, and holding a hearing) when it terminated employes who were let go during their first six months of employment on a temporary or emergency appointment or while on an original probation, or when it separated temporary employes at the time the temporary vacancy ceased to exist, and therefore, the County has not violated Sec. 111.70(3)(a)5, Stats., or any other provision of MERA.

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

ORDER 1/

IT IS ORDERED that the complaint be, and the same hereby is, dismissed.

Dated at Madison, Wisconsin this 7th day of June, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley
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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.

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The parties stipulated that the following issues were to be decided by the Examiner:

1. Is an employe entitled to a hearing if he/she is let go during the first six months of employment?

2. Can an employe grieve being let go during the first six months of employment to the permanent umpire if he/she alleges contract violations were committed by the County which resulted in the discharge?

3. Is an employe let go after more than six months of service entitled to a hearing before the parties' permanent umpire or the Milwaukee County Personnel Review Board when the County alleges the termination was not for cause?

UNION'S POSITION

The Union contends that all employes regardless of length of service are entitled to all contractual rights, including the right to a hearing before separation from employment. It argues that temporary or emergency appointees meet the contractual definition of an employe and have the right to use all the contractual provisions. It claims that Part 4 of the contract makes the grievance procedure available to these employes and Section 4.07 grants them the right to Union representation. It relies on Milwaukee County, 2/ which dealt with the discharge of CETA employes who had less than six months of employment, as requiring the County to submit to arbitration grievances relating to discharges and the denial of Union representation to employes who are let go during the first six months of employment. The Union also contends that where a collective bargaining agreement is silent on the employer's right to terminate probationary employes, and the agreement contains a just cause provision for discharge, the employer must follow the contractual progressive discipline procedures prior to the discharge of probationary employes.

The Union asserts that an employe discharged allegedly for reasons other than "for cause," such as the return of the regular employe from sick leave, is entitled to a hearing. It argues that without a hearing, the County's non-cause reason could be a pretext, and a hearing is necessary to determine whether non-cause was the reason for the discharge or whether the real reason for the discharge was "for cause."

The Union alleged that the discharge of certain employes was based on their race, the filing of a grievance, and for unsupported reasons which violated Sec. 1.03, Part 4, Sec. 4.07 and Sec. 1.05, respectively of the parties' agreement, and therefore, the employes should have the right to utilize the grievance procedure on these discharges to demonstrate the County's violation of the above-cited contractual provisions.

COUNTY'S POSITION

The County contends that no employe has a right to hearing when he/she is separated from employment during the first six months of such employment. It points out that the Wisconsin Supreme Court has upheld the right of the County to separate a probationary employe without a hearing. 3/ It also refers to the last sentence of Sec. 63.07(1)(a), Stats., which provides that the period of service for a temporary appointment is not counted as part of the probationary period

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2/ Decision No. 16448-B (4/79).

3/ State ex rel. Dela Hunt v. Ward, 26 Wis. 2d 345, 132 N.W. 2d 523 (1965).

required after appointment to a permanent position. It contends that this statute would be meaningless if an employe on a temporary appointment were entitled to a hearing but that same employe would not be entitled to a hearing after he is given a regular appointment and is terminated during the required probationary period.

It asserts that the parties' collective bargaining agreement does not provide for a hearing in connection with the discharge of a temporary employe. It relies on Milwaukee County 4/ to support its contention that the contract does not apply to the discharge of employes. It asserts that the County has, with only the one exception of the CETA employes, never agreed to refer discharges to arbitration, and insists that this is a prohibited subject of bargaining. 5/

The County contends that a permanent employe who is let go during his probationary period is not entitled to a hearing before the Personnel Review Board or before the permanent umpire no matter what he alleges as the reason for his/her discharge. It argues that if an employe alleges discrimination or retaliation, his/her recourse lies elsewhere and not to the Board or umpire, otherwise the statues would be rendered meaningless.

The County points out that its policy is to afford a hearing to an employe who has been on either a temporary or emergency appointment in excess of six months and is separated for cause. It maintains that an employe on a temporary or emergency appointment for longer than six months is not entitled to a hearing when he/she is separated because of the return of the incumbent to the position or the position expires due to its limited life. It argues that the employe is clearly made aware that when the incumbent returns, he/she will be separated. It notes that the Commission has previously indicated that this practice is implicit in the concept of temporary employment. 6/ The County requests that the complaint be dismissed on its merits as a matter of law.

DISCUSSION

The first issue presented is whether an employe is entitled to a hearing if he/she is let go during the first six months of employment. Sec. 63.10, Stats. provides the procedure for the discharge of employes, which includes the right to a hearing before the Milwaukee County Personnel Review Board prior to the discharge. The Commission has declared that this statutory procedure is exclusive and precludes any provision of the collective bargaining agreement as providing for the appeal of a discharge through the grievance procedure to the permanent umpire. 7/ Additionally sec. 4.08 of the parties' agreement provides a reopener in the event that Chapter 63, Stats. is amended to permit the discharge of employes "to be treated in a manner jointly determined by municipal employes and labor organizations and/or to amend the definition of probationary service as it relates to temporary service." Clearly, the parties have provided by this language that the discharge of employes shall proceed under Sec. 63.10 and not under the agreement. The County applies the provisions of Sec. 63.10, Stats. to all employes who have completed probation and to temporary and emergency appointees who have completed six months of employment in the position and are terminated for cause.

An employe who is given a regular appointment to a permanent position must serve a six month probationary period. The Wisconsin Supreme Court has held that the County may separate an employe during his probationary period without a hearing under Sec. 63.10, Stats. 8/ Additionally, the Commission has previously found that the Sec. 63.10 procedures do not apply to discharges of persons holding

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4/ Decision No. 14962-B (8/78).

5/ Milwaukee County, 17832 (5/80).

6/ Milwaukee County, 14962-B (8/78).

7/ Milwaukee County, 17832 (5/80).

8/ State ex rel. Dela Hunt v. Ward, 26 Wis. 2d 345, 133 N.W. 2d 523 (1965); See also Milwaukee County (Medical Complex), 15196-A 3/80.

an emergency appointment to a position in the classified service. 9/ The remaining issue is whether the provisions of Sec. 63.10 apply to the termination of employes holding temporary appointments. The Commission has considered this issue and has indicated that a rule or policy which permits discharge during the six month period provided for temporary appointments would not be dissimilar from the rule approved by the Supreme Court on probationary employes. 10/ Sec. 63.07 (1)(a), Stats. provides, in part, that the period of service of any temporary appointment shall not be counted as part of the probationary period required after appointment to a permanent position. It would be incongruous to require a hearing under Sec. 63.10 on the termination of a temporary employe when that same employe must later serve a probationary period during which he/she can be terminated without a hearing. The Examiner concludes that the Supreme Court's decision in Ward, supra, when read in conjunction with Sec. 63.07, Stats. implicitly provides that the County may separate a temporary appointee without applying the provisions of Sec. 63.10, Stats. to that employe. Therefore, it is concluded the County is not required to provide a hearing under Sec. 63.10 to employes who are let go during the first six months of employment.

It must also be concluded that these employes are not entitled to a hearing under the parties' collective bargaining agreement. In Milwaukee Police Association v. Milwaukee, 11/ the Court held that, in the absence of express language in the collective bargaining agreement making the discharge of probationary employes subject to the grievance procedure, probationary terminations are not arbitrable. The parties' collective bargaining agreement does not contain any specific and express language making such discharges subject to the grievance procedure. 12/ On the contrary, Sec. 4.08 of the parties' agreement implies that the release of a probationary employe is not covered by the agreement. Similarly, the agreement does not expressly provide for the use of the grievance procedures for the discharge of temporary employes. Using the same rationale set out above with respect to a Sec. 63.10 hearing (incongruity with the release of an employe without recourse to the grievance procedure while on a probationary period which a temporary employe must later serve) it is concluded that the discharge of a temporary employe is not subject to the contractual grievance procedure.

The Union's reliance on Milwaukee County, 16448-B (4/79), which involved the termination of CETA employes, is misplaced. There the County denied these employes the right to Union representation at investigative interviews, a right guaranteed by the terms of the parties' agreement. It was further alleged that the County made an oral agreement to arbitrate issues concerning these employes. The Examiner concluded that the County's refusal to submit these issues to arbitration violated Sec. 111.70(3)(a)5, Stats. In the instant case, the Union has not shown any right under the parties' collective bargaining agreement which provides for the arbitration of the termination for employes in their first six months of employment, and therefore, the above-cited case is distinguishable from the instant facts. Based on the above discussion, it is concluded that an employe is not entitled to a hearing pursuant to Sec. 63.10 or to the permanent umpire if he/she is let go during the first six months of employment.

The second issue presented is whether an employe can grieve being let go during the first six months of employment to the permanent umpire if he/she alleges contract violations were committed by the County which resulted in the discharge. As previously found in discussing the first issue, employes let go during the first six months of employment are not entitled to a hearing under the contractual grievance procedure on their discharge. Given that there is no express and specific language providing for contractual review, and further noting that employes with more than six months of service cannot grieve their discharges, apparently even where they also allege other contractual violations, it must be concluded that there is no contract enforcement forum applicable to the discharge

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9/ Milwaukee County, 14962-A (3/78).

10/ Milwaukee County, 14962-B (8/78).

11/ 113 Wis. 2d 192, 335 N.W. 2d 417 (Ct. App. 1983) (review pet. den. S. Ct. 9/19/83).

12/ Milwaukee County, 14962-A (3/78).

of these employes. 13/ To hold otherwise would run counter to Milwaukee Police Assn., supra, because the release of probationary employes could then be processed under the grievance procedure based on "general contract" terms. 14/ Also, every discharge could be brought to the permanent umpire merely by alleging a contraction violation, a result which would circumvent Sec. 63.10, Stats. Therefore, it must be concluded that an employe cannot grieve being let go during the first six months of employment to the permanent umpire where he/she alleges contract violations were committed by the County which resulted in the discharge.

The third issue to be determined is whether an employe let go after more than six months of service is entitled to a hearing before the permanent umpire or the Milwaukee County Review Board when the County alleges that the termination is not based on "for cause" reasons. Implicit in the concept of a temporary appointment is that it will not continue for an indefinite period and where the employe is separated on the basis that the temporary term has expired, no hearing on such separation is required. 15/ The Union contends that the County might use the expiration of the temporary appointment as a pretext to discharge an employe for cause without a hearing. Inasmuch as the temporary appointee has no expectation of employment beyond the expiration of the term and would in any event be released upon the expiration of the term, it simply does not follow that release would be a pretext for a discharge for cause. Therefore, a temporary employe who is let go after more than six months of service because the temporary appointment ends is not entitled to a hearing before the permanent umpire or the Milwaukee County Personnel Review Board.

Inasmuch as all the stipulated issues have been answered in the negative, the complaint as amended has been dismissed in its entirety.

Dated at Madison, Wisconsin this 7th day of June, 1984.

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13/ This conclusion does not imply that such employes cannot utilize any other statutory forum to pursue claims of discrimination on the basis of race, sex, etc. or a violation of rights under MERA. Sec. 4.02(1) of the parties' agreement implies the utilization of procedures outside the grievance procedure.

14/ City of Wauwatosa, 19310-C, 19311-C, 19312-C (4/84).

15/ Milwaukee County, 14962-B (8/78), note 6.