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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

STATE OF WISCONSIN      CIRCUIT COURT      FOND DU LAC COUNTY

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LOCAL 400, INTERNATIONAL  
ASSOCIATION OF FIREFIGHTERS,  
(IAFF), AFL-CIO,

Petitioner,

D E C I S I O N

v.

Case No. 85-CV-197

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION,

Decision No. 22373

Respondent,

and

CITY OF FOND DU LAC,

Co-Respondent.

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INTRODUCTION

This is an action for judicial review under Wisconsin Statutes Section 111.07 (8). The Petitioner, (Local 400) challenges the Respondent's (WERC) declaratory ruling that the City of Fond du Lac and Local 400 have no duty to bargain over the minimum manning portions of a "safety clause" contract proposal applicable to engine and aerial companies set forth verbatim in the WERC decision. The scope of judicial review is limited by Wisconsin Statutes 227.20.

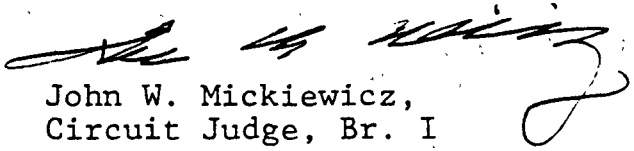
DECISION

The key issue to review is the WERC's finding of fact

that the applicable portion of the safety clause proposal applicable to engine and aerial companies primarily relates to the management and direction of the City of Fond du Lac. The voluminous evidence presented before the WERC would clearly support a finding that a minimum number of firefighters sent as a first response to the scene of a structural fire is a safety consideration and, therefore, a subject of mandatory bargaining. However, the court concurs with the WERC in its statement on Page 12 of its memorandum decision that the record is inconclusive on the issue of whether there are any significant safety concerns that relate to how many firefighters should ride a particular piece of equipment while in transit to an emergency scene. The rig manning portions of Local 400's safety clause proposal address the number of firefighters on a piece of equipment in transit to a fire scene, and not the minimum number of firefighters to be delivered to a structural fire regardless of their mode of transportation. Finding of fact No. 4 set forth in the WERC's decision is fully supported by credible and substantial evidence from which the conclusions of law and declaratory rulings automatically follow. The court affirms in all respects the WERC's findings, conclusions and declaratory rulings dated February 21st, 1985. The attorney for the Commission is directed to file a judgment in accordance with this decision.

Dated: September ~~18~~, 1985.

BY THE COURT:

  
John W. Mickiewicz,  
Circuit Judge, Br. I