

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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MILWAUKEE TEACHERS'		:	
EDUCATION ASSOCIATION		:	
	Complainant,	:	Case 172
		:	No. 36019 MP-1792
vs.		:	Decision No. 23150-A
		:	
MILWAUKEE BOARD OF		:	
SCHOOL DIRECTORS,		:	
	Respondent.	:	
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ORDER DENYING MOTION TO DISMISS COMPLAINT AND MOTION FOR COSTS AND ATTORNEY'S FEES

On November 15, 1985, Milwaukee Teachers' Education Association, herein Complainant, filed a complaint with the Wisconsin Employment Relations Commission, herein Commission, alleging that the Milwaukee Board of School Directors, herein Respondent, had committed certain prohibited practices within the meaning of Sec. 111.70(3)(a)4 of the Municipal Employment Relations Act, herein MERA. On December 26, 1985, the Respondent filed a Motion to Dismiss Complaint and Motion for Costs and Attorney's Fees. On December 27, 1985, the Commission 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 Sec. 111.07(5), Stats. The Examiner, being advised in the premises herein, makes and issues the following

ORDER

That Respondent's Motion to Dismiss Complaint and Motion for Costs and Attorney's Fees be, and the same hereby are, denied.

Dated at Madison, Wisconsin this 9th day of January, 1986.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley
Lionel L. Crowley, Examiner

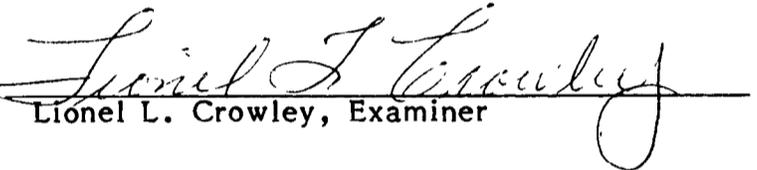
MILWAUKEE PUBLIC SCHOOLS

MEMORANDUM ACCOMPANYING ORDER DENYING
MOTION TO DISMISS COMPLAINT AND
MOTION FOR COSTS AND ATTORNEY'S FEES

Respondent based its Motion to Dismiss Complaint on the grounds that the complaint fails to state a cause of action upon which relief may be granted and that the complaint raises no issues of fact or law for determination. On a motion to dismiss, the complaint must be liberally construed in favor of the complainant and the motion will be granted only if under no interpretation of the facts alleged would the complainant be entitled to relief. 1/ A review of the complaint in light of the above criteria persuades the Examiner that the complaint presents a contested case which raises questions of fact and law which are best resolved by an evidentiary hearing, and hence the Motion to Dismiss Complaint is premature. 2/ Therefore, the Examiner has denied the Motion to Dismiss Complaint. It also follows from the denial of Respondent's Motion to Dismiss Complaint that Respondent's Motion for Costs and Attorney's Fees is likewise denied.

Dated at Madison, Wisconsin this 9th day of January, 1986.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Lionel L. Crowley, Examiner

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- 1/ Racine School District No. 1 , Dec. No. 15915-B (Hornstra, 12/77).
2/ See City of Port Washington , Dec. No. 20076-A (Roberts 11/82); Madison School District , Dec. No. 18682-A (Pieroni, 5/81); Waukesha County (Northview Home and Hospital) , Dec. No. 18402-A (Mukamal, 2/81).