

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

MILWAUKEE BOARD OF  
SCHOOL DIRECTORS,

Petitioner,

v.

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION,

Respondent.

Case No. 88-CV-020080

Decision No. 23592-B

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WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

NOTICE OF ENTRY OF MEMORANDUM DECISION

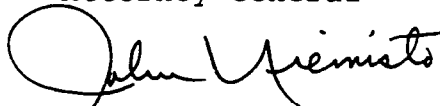
TO: Deborah A. Ford  
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Milwaukee Public Schools Administration Building  
Post Office Drawer 10K  
Milwaukee WI 53201-8210

Richard Perry  
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823 North Cass Street  
Milwaukee WI 53202-3908

PLEASE TAKE NOTICE that a memorandum decision, of which a true and correct copy is hereto attached, was signed by the court on the 3rd day of May, 1989, and duly entered in the Circuit Court for Milwaukee County, Wisconsin, on the 3rd day of May, 1989.

Dated at Madison, Wisconsin, this 9th day of May, 1989.

DONALD J. HANAWAY  
Attorney General



JOHN D. NIEMISTO  
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RELATIONS COMMISSION

STATE OF WISCONSIN    ::    CIRCUIT COURT    ::    MILWAUKEE COUNTY

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MILWAUKEE BOARD OF SCHOOL  
DIRECTORS,

Petitioner,

vs.

Case No. 88-CV 020-080

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION,

Respondent.

Decision No. 23592-B

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MEMORANDUM DECISION

Petitioner prays this Court to review the decision of respondent dated December 2, 1988, whereby it requires Milwaukee Board of School Directors to participate in an arbitration hearing or hearings with Milwaukee Teachers' Education Association as recited, concerning wages, hours, and conditions of employment of employees holding positions as instructors under the Foreign Language Exploration and Computer Camp programs, as described in the proceedings on file herein.

Respondent has filed a motion to dismiss the petition for review on the ground that the Court lacks jurisdiction over the person or the subject matter, based on the failure of petitioner to comply with the provisions of Section 227.53 statutes, in that such petition for review was not served on the Commission personally or by certified mail within thirty days after notice of the decision of the Wisconsin Employment Relations Commission referred to above.

Section 227.53, Wisconsin Statutes, recites:

- "(1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.
- (a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held . . .
2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48 . . . "

A comparable situation arose in a case entitled County of Milwaukee vs. State of Wisconsin, Labor and Industry Review Commission, 142 Wis. 2d, 307. The Court of Appeals recited:

"Because strict compliance with the service requirements of Section 227.53, statutes, is essential to properly invoke the circuit court's subject matter jurisdiction, we affirm the circuit court's order dismissing the petition for Milwaukee County's failure to properly serve all the parties."

In 519 Corp. vs. Department of Transportation, 92 Wis. 2d 276, the Supreme Court required strict compliance with the statute applying to service of a notice of appeal from a County Condemnation Commission award. Section 32.05(10)(a) statutes required that notice of appeal be by personal service or certified mail. It was made by ordinary first class mail.


In the case at bar, petitioner failed to comply with the requirements of Section 227.53 in that its petition for review was not served personally or by certified mail within the statutory time.

Petitioner has filed a motion for leave to amend its petition for review, said motion having been filed on January 19, 1989. This Court cannot consider that request as it has been filed after the time within which proceedings for review must be commenced.

IT IS ORDERED that the petition for review be  
and the same is hereby dismissed.

Dated at Milwaukee, Wisconsin, this 3rd day of  
May, 1989.

BY THE COURT:

  
Hon. Charles L. Larson  
Reserve Judge, Br. 8 - Civil