STATE OF WISCONSIN CIRCUIT COURT MANITOWOC COUNTY

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MANITOWOC PUBLIC
SCHOOL DISTRICT,

Petitioner,

v. Case No. 88-CV-173

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION, Decision No. 24205-B

Respondent.

NOTICE OF ENTRY OF DECISION

TO: John M. Spindler
Nash, Spindler, Dean & Grimstad
201 East Waldo Boulevard
Manitowoc WI 54220-2992

PLEASE TAKE NOTICE that a decision, of which a true and correct copy is hereto attached, was signed by the court on the 30th day of January, 1989, and duly entered in the Circuit Court for Manitowoc County, Wisconsin, on the 30th day of January, 1989.

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

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STATE OF WISCONSIN CIRCUIT COURT
BRANCH 1

MANITOWOC PUBLIC
SCHOOL DISTRICT
Petitioner,

VS.

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION
Respondent.

DECISION ON JUDICIAL REVIEW

CASE NO. 88 CV 173

Decision No. 24205-B

The Wisconsin Employment Relations Commission (WERC) affirmed and modified the hearing examiner's findings of fact and conclusions of law, thereby determining that the Manitowoc Public School District (MPSD) committed a prohibited practice in violation of Sec. 111.70 (3)(a) 4 of the Wisconsin Statutes.

Specifically, the WERC determined that the MPSD refusal to pay teachers vertical salary increments embodied in the 1985-86 collective bargaining agreement upon its expiration, but before settlement of the 1986-87 collective bargaining agreement, altered the "status quo" between the MPSD and the Manitowoc Education Association (MEA).

Because the record before the WERC contains substantial evidence of commission of a prohibited practice the decision of the WERC must be AFFIRMED.

A review of the record reveals that a vertical step or increment in salary based upon level of education (highest degree attained) and years of teaching experience is the traditional method of establishing teacher compensation. Immediately prior to the 1981-82 collective bargaining agreement, a two year pact, the MPSD and the MEA utilized some form of vertical step or increment in their salary scheme. With the 1981-82 pact the parties departed from the traditional method of establishing teacher compensation by agreeing to implement such salary increases for successive years without factoring in prior years of teaching experience. However, the level each returning teacher started at under the new compensation scheme was predicated on the level achieved under the previous traditional method of establishing teacher compensation. The new teacher compensation scheme was continued by agreement of the parties in the 1983-85 pact.

In essence, the change in establishing teacher compensation after 1980 was a bargained set increase (plus an agreed amount for obtaining a higher degree) for a teacher at a certain level that was determined prior to 1981, as opposed to an automatic increase resulting from another year of teaching experience and/or attainment of a higher degree. Although touted as unique and innovative, the post 1980 method of establishing teacher compensation remained predicated on the pre-1981 salary levels achieved on years of teaching experience and highest degree attained. By way of example, a teacher with a bachelor's degree

and 5 years of experience in 1980 earned $13,429. That level can be tracked in 1981 to $15,040, in 1982 to $16,695, in 1982-83 to $17,545, in 1983-84 to $18,995 and in 1984-85 $19,995 (as the result of arbitration).

With that background the parties were returned by the arbitration process in their 1985-86 collective bargaining agreement to the traditional vertical step or increment method of establishing teacher compensation. When that collective bargaining agreement expired without a successor agreement in place, the parties disagreed as to what the "status quo" should be during the hiatus.

The WERC found the "status quo" to have been established by the 1985-86 collective bargaining agreement. In so doing the WERC relied on the bargaining history of the parties leading up to the arbitrator's decision to return to the dynamic or automatic method traditionally used in establishing teacher compensation.

That bargaining history included the MPSD's opposition to a return of the traditional method. As noted earlier, the only real difference was the automatic vs. bargained increases. If this method was not to be the "status quo" until another collective bargaining agreement was in place, there would not be anything automatic about it. There would be no vertical movement. There would only be a bargained level of compensation with no possible change. That is not what the arbitrator awarded the MEA in chosing the MEA's final offer.

Furthermore, the WERC considered the MPSD's concessi that the arbitrator's award would cost the MPSD $275,347 for t following school year. That projection is meaningless unless construed to mean that the traditional method was truely autom tic unless a different agreement was reached or imposed. The WERC's interpretation is further supported by the uncontrovert testimony of Richard Terry before the hearing examiner on February 24, 1987 at pages 27 through 30. His testimony demonstrates that the MPSD very well understood the consequenc of retruning to the traditional method of establishing teacher compensation.

The use of pre-1980 salary levels in collective bargaining agreements with a non-traditional method of establishing teacher compensation, the nature of an automatic vertical step or increment method implying some movement in salaries unless altered by a new agreement, the projected cost analysis by the MPSD of the future effect of a return to the t ditional method and the understanding of the parties of how th method would affect future salary increases is, in the judgmen of this Court, substantial evidence supporting the finding of WERC that the MPSD's failure to grant vertical step or increme in salary during the hiatus unilaterlly altered the "status qu Sec. 227.57(6), Wis. Stats.

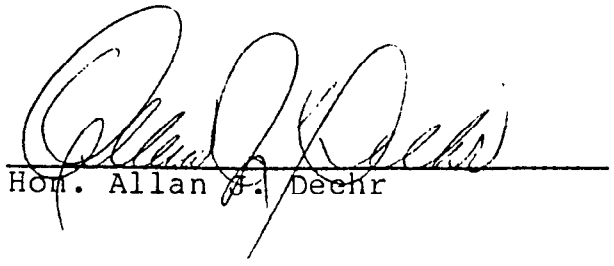
Reasonable minds considering the same evidence could reach the same conclusion as that reached by the WERC. Madison Gas and Electric Company vs. Public Service Commission of Wisconsin, 109 W2d 127, 133, 325 NW2 339(1982). Application of the Municipal Employment Relations Act requires expertise and, thus, due weight must be given to its interpretation by the WERC in the context of the facts of this case. Milwaukee vs. Wisconsin Employment Relations Commission, 43 W2d 596, 601, 168 NW2d 809(1969).

ORDER

The March 4, 1988 decision of the WERC is affirmed, including the provision for interest.

Dated this 30th Day of January,

BY THE COURT:



Hon. Allan J. Deehr