

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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LABOR ASSOCIATION OF WISCONSIN,  
INC. for and on behalf of the  
VILLAGE OF RIVER HILLS  
POLICE ASSOCIATION,

Complainant,

vs.

VILLAGE OF RIVER HILLS,

Respondent.  
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Case 7  
No. 38473 MP-1943  
Decision No. 24570-B

Appearances:

Mr. Patrick J. Coraggio, Labor Association of Wisconsin, Inc., on behalf of  
Complainant.

Mr. William C. Dineen, Village Attorney, on behalf of Respondent.

ORDER DENYING RESPONDENT'S MOTION TO DISMISS

Labor Association of Wisconsin, Inc., filed the instant complaint with the Wisconsin Employment Relations Commission on March 9, 1987 where it alleged that Respondent Village of River Hills had violated Section 111.70 of the Municipal Employment Relations Act by refusing to arbitrate two grievances which claimed that Respondent's refusal to pay certain travel time was violative of the parties' collective bargaining agreement. Respondent filed a Motion to Dismiss said complaint with the Commission on March 27, 1987 where it argued that the grievances were not arbitrable. The Commission by Order dated June 12, 1987 advised Village Attorney William C. Dineen that said motion would have to be decided by the Hearing Officer and not by the Commission.

After being advised by the undersigned that said motion would be ruled upon either before or at a scheduled hearing, Respondent on July 22, 1987 filed a Petition for Alternative Writ of Mandamus and Stay of Proceedings with the Circuit Court of Dane County where it asked the Court to order the Commission to rule on its motion prior to hearing. The Commission, in turn, opposed the granting of said Writ. After hearing on said matter, the Court by the Honorable Judge James C. Boll on September 4, 1987 quashed Respondent's request for a Writ and authorized a Wisconsin Employment Relations Commission Examiner to rule on Respondent's original Motion to Dismiss. Respondent subsequently appealed said ruling to the Court of Appeals, District V, which on February 11, 1988 affirmed said ruling.

Having considered the matter, it is

NOW THEREFORE

ORDERED

That Respondent's Motion be, and the same hereby is, denied.

Dated at Madison, Wisconsin this 18th day of April, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Amedeo Greco, Examiner

VILLAGE OF RIVER HILLS

MEMORANDUM ACCOMPANYING ORDER DENYING  
RESPONDENT'S MOTION TO DISMISS

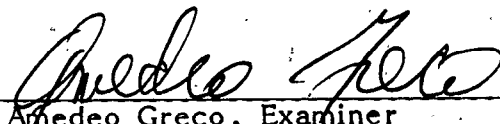
The primary issue in this matter is whether Respondent has unlawfully refused to arbitrate two (2) grievances and whether they are substantively arbitrable under Article XXIII of the contract entitled "Grievances" which provides that "A grievance is defined as a difference of opinion as to the meaning or application of the provisions of this agreement . . ." with the Complainant arguing, and Respondent denying, that they are.

Since Article VII of the contract, entitled "Addition of Compensation," provides that employees attending certain training exercises "shall receive straight time pay in addition to his regular salary for all time outside of regular duty hours," and since the grievances here center on whether employees on off duty hours should be paid for traveling to and from authorized training involving certification for Emergency Medical Technician status, and since Complainant asserts that Respondent has refused to arbitrate grievances asking for such travel time, it must be concluded that the complaint herein raises disputed issues of fact and law which can only be resolved at hearing. Respondent's Motion to Dismiss is therefore denied. 1/

Dated at Madison, Wisconsin this 18th day of April, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Amedeo Greco, Examiner

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1/ Respondent's Motion also argues that "once the contract expired, the Village no longer was bound to the grievance arbitration provisions of the contract in that such provisions are not a part of the status quo." The law governing grievances such as these which arise during the term of a collective bargaining agreement is all to the contrary.