

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LA CROSSE EDUCATION ASSOCIATION,

Complainant,

vs.

LA CROSSE SCHOOL DISTRICT,

Respondent.

Case 51

No. 38734 MP-1968

Decision No. 24664-A

ORDER DENYING MOTION TO DISMISS

La Crosse Education Association, (the Association), on April 29, 1987, filed a complaint with the Wisconsin Employment Relations Commission, (the Commission), alleging La Crosse School District, (the District), had committed prohibited practices in violation of Sec. 111.70(3)(a)5 of the Municipal Employment Relations Act; the Commission appointed, on July 15, 1987, Jane B. Buffett, 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 District, on August 5, 1987, filed a Motion to Dismiss; the Examiner, being satisfied the District's Motion should be denied, makes and issues the following


ORDER

IT IS ORDERED that the District's Motion to Dismiss be, and the same hereby is, denied.

Dated at Madison, Wisconsin this 11th day of August, 1987.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By:


Jane B. Buffett, Examiner

LA CROSSE SCHOOL DISTRICT

MEMORANDUM ACCOMPANYING ORDER
DENYING MOTION TO DISMISS

The District's Motion to Dismiss is based, ultimately, on jurisdictional grounds. The District notes the subject of the dispute, a contract non-renewal, is expressly excluded in the collective bargaining agreement from final and binding arbitration. In the District's view, such disputes properly belong in state court, and since the Association has not gone to state court, it has not exhausted its remedies and the Commission, according to its policy of requiring exhaustion of contracted dispute procedures, should not exercise jurisdiction over this matter.

Notwithstanding the District's argument, the Examiner concludes the motion is premature, inasmuch as the complaint presents a contested case 1/ which requires a full hearing on the pleadings. 2/

Dated at Madison, Wisconsin this 11th day of August, 1987.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By:  _____
Jane B. Buffett, Examiner

1/ Sections 111.07(2)(a), 111.07(4) and 227.064(1), Stats.

2/ General Electric Co. v. Wisconsin Employment Relations Board, (1957) 3 Wis. 2d 227, 241.