

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JUDY BURNICK, BUSINESS
REPRESENTATIVE, O.P.E.I.U.,
LOCAL 35,
Complainant,
vs.
OZAUKEE COUNTY, HAROLD
DOBBERPUHL, COUNTY CLERK,
Respondents.

Case 22
No. 39884 MP-2047
Decision No. 25146-A

ORDER GRANTING RESPONDENTS' AMENDED
MOTION TO DISMISS AND DENYING RESPONDENTS'
REQUEST FOR ATTORNEY'S FEES

Judy Burnick, Business Representative, O.P.E.I.U., Local 35, hereinafter Complainant, having on March 25, 1988, filed an amended Complaint of unfair labor practices with the Wisconsin Employment Relations Commission, wherein it is alleged that Ozaukee County and Harold Dobberpuhl, County Clerk, hereinafter Respondents, have violated Sec. 111.06(1)(f), Stats., or alternatively Sec. 111.70(3)(a)5, Stats., by failing to bargain with O.P.E.I.U., Local 35, over a change in insurance carriers and benefits and, further, by failing to comply with the terms of an existing labor agreement; and the Respondents having on March 29, 1988 filed an Amended Motion to Dismiss requesting that the Wisconsin Employment Relations Commission dismiss that portion of the amended complaint which alleges a violation of Sec. 111.06(1)(f), Stats., and to award attorney's fees to the Respondents; and the Wisconsin Employment Relations Commission having on February 8, 1988 appointed Coleen A. Burns, a member of its staff, to act as Examiner; and the Examiner having considered the matter;

NOW, THEREFORE, it is

ORDERED

1. That the portion of the Complaint which alleges a violation of Sec. 111.06(1)(f), Stats., is hereby dismissed.

2. That Respondents' request for attorney's fees is hereby denied.

Dated at Madison, Wisconsin this 4th day of April, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Coleen A. Burns
Coleen A. Burns, Examiner

OZAUKEE COUNTY

MEMORANDUM ACCOMPANYING
ORDER GRANTING RESPONDENTS' AMENDED
MOTION TO DISMISS AND DENYING RESPONDENTS'
REQUEST FOR ATTORNEY FEES

The Examiner is satisfied that Respondent County and Respondent County Clerk Harold Dobberpuhl are "municipal employers" within the meaning of Sec. 111.70(1)(j), Stats., and are not "employers" within the meaning of Sec. 111.02(7), Stats. As a matter of law, Respondents cannot be found to have violated Sec. 111.06(1)(f), Stats. Accordingly, the Examiner has dismissed that portion of the amended Complaint which alleges a violation of Sec. 111.06(1)(f), Stats.

Inasmuch as the remaining portion of the amended Complaint presents a contested case, requiring a full hearing on the pleadings, Respondents' request for attorney fees is premature and denied. Respondent may reassert the request for attorney's fees at the hearing.

Dated at Madison, Wisconsin this 4th day of April, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Coleen A. Burns*
Coleen A. Burns, Examiner