

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

:

BELOIT FIRE FIGHTERS, LOCAL :

UNION NO. 538, IAFF, AFL-CIO, :

:

Complainant, : Case 77

: No. 41525 MP-2178

vs. : Decision No. 25917-C

:

CITY OF БЕЛОIT (FIRE DEPARTMENT), :

:

Respondent. :

:

Appearances:

Lawton & Cates, S.C., Attorneys at Law, 214 West Mifflin Street, Madison, Wisconsin 53703-2594, by Mr. Richard V. Graylow, appearing on behalf of the Complainant.
Mr. Daniel T. Kelley, City Attorney, City of Beloit, 416 College Avenue, Beloit, Wisconsin 53511, appearing on behalf of the Respondent.

ORDER DISMISSING PETITION FOR REVIEW

Examiner Lionel L. Crowley having on August 1, 1989, issued an Order Denying Motion to Dismiss and Deferring Complaint to Grievance Arbitration in the above matter; and the City of Beloit having on August 21, 1989 filed a petition for review with the Commission asking that the Examiner's Order be reversed and that the complaint be dismissed; and the Beloit Fire Fighters, Local Union No. 583, IAFF, AFL-CIO having filed a response in opposition to the City petition on September 11, 1989; and the Commission having considered the matter and concluded that it will not exercise its discretionary authority to review the Examiner's Order;

NOW, THEREFORE, it is

ORDERED

That Respondent City of Beloit's petition for review is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 19th day of October, 1989.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
A. Henry Hempe, Chairman

Herman Torosian, Commissioner

William K. Strycker, Commissioner

CITY OF БЕЛОIT (FIRE DEPARTMENT)

MEMORANDUM ACCOMPANYING ORDER DISMISSING
PETITION FOR REVIEW

The City's petition seeks Commission review of the Examiner's denial of the City's Motion to Dismiss and deferral of the complaint to grievance arbitration. The Examiner's decision is not a "final" disposition of the parties' dispute as to which a non-discretionary right to Commission review

exists. 1/ As we decline to exercise our discretionary power to entertain the City's petition for review of the Examiner's interlocutory decision, 2/ we have dismissed the petition. If the case is ultimately decided in a final manner which the City believes to be incorrect, the City is free to file another petition for review at that time raising whatever issues it deems appropriate.

Dated at Madison, Wisconsin this 19th day of October, 1989.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
A. Henry Hempe, Chairman

Herman Torosian, Commissioner

William K. Strycker, Commissioner

1/ G & H Products, Inc., Dec. No. 17630-B (WERC, 1/82); Jefferson Board of Education, Dec. No. 13648-B (WERC, 1/76).

2/ State of Wisconsin, Dec. No. 11457-C, D (WERC, 3/73), aff'd State of Wisconsin v. WERC, 65 Wis.2d 624 (1974); Milwaukee County, Dec. No. 19545-D (WERC, 3/85).