

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LOCAL 428, MILWAUKEE, WISCONSIN	:	
GENERAL CITY CLERICAL EMPLOYEES,	:	
MILWAUKEE DISTRICT COUNCIL 48,	:	
AFSCME, AFL-CIO,	:	
	:	Case 366
Complainant,	:	No. 44601 MP-2396
	:	Decision No. 26728-C
vs.	:	
THE CITY OF MILWAUKEE,	:	
	:	
Respondent.	:	

Appearances:

Perry, Lerner & Quindel, S.C., Attorneys at Law, 823 North Cass Street, Milwaukee, Wisconsin 53202-3908, by Mr. Peter Guyon Earle, appearing on behalf of the Complainant.

Ms. Mary M. Kuhnmuensch, Assistant City Attorney, City of Milwaukee, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202-3551, appearing on behalf of the Respondent.

ORDER GRANTING PETITION FOR REHEARING

Examiner Stuart Levitan having, on November 13, 1991, issued his Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, in the above-entitled proceeding, wherein the Examiner dismissed certain complaint allegations but wherein the above-named Respondent was found to have committed, and was committing, prohibited practices within the meaning of Sec. 111.70(3)(a)1 of the Municipal Employment Relations Act, and was ordered to cease and desist therefrom and to take certain affirmative action with respect thereto; and no petition for review of said Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, having been filed within the twenty day statutory period set forth in Sec. 111.07(5), Stats.; and no intervening order by the Examiner or the Commission having been issued within said statutory period; and by operation of Sec. 111.07(5), Stats., Examiner Levitan's Findings of Fact, Conclusions of Law and Order issued in the above-entitled matter became the Commission's Findings of Fact, Conclusions of Law and Order on December 3, 1991; and Complainant having filed an untimely Petition for Review on December 4, 1991; and the Commission having, on December 10, 1991, issued a Notice stating that by operation of Sec. 111.07(5), Stats., Examiner Levitan's decision had become the Commission's on December 3, 1991; and Complainant having, on December 17, 1991, filed a Petition for Rehearing pursuant to Sec. 227.49, Stats., asserting that the decision of the Examiner and the Commission contained material errors of fact and that new evidence existed of sufficient strength to reverse or modify the Commission's Order, which evidence could not have been previously discovered by due diligence; and Respondent having advised the Commission by letter on January 2, 1992, that Respondent opposed the petition; and the Commission having considered the matter and concluded that it is appropriate to grant the petition to allow the Commission to determine whether there is merit to Complainant's assertions herein;

NOW, THEREFORE, it is

ORDERED

The petition for hearing is granted.

Given under our hands and seal at the City
of Madison, Wisconsin this 16th day of
January, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner