

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WAUSAU CITY EMPLOYEES UNION,	:	
LOCAL 1287, AFSCME, AFL-CIO,	:	
	:	
Complainant,	:	Case 64
	:	No. 45377 MP-2458
vs.	:	Decision No. 26919-D
	:	
CITY OF WAUSAU,	:	
	:	
Respondent.	:	
	:	

Appearances:

Mr. Jack Bernfeld, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.
Mr. William P. Nagle, City Attorney, City of Wausau, appearing on behalf of the City.

ORDER DISMISSING PETITION FOR REVIEW

Examiner Coleen A. Burns having, on November 1, 1991, issued an Order Denying Motion to Dismiss Complaint in the above matter; and the City of Wausau having, on November 5, 1991, filed a Petition for Review with the Wisconsin Employment Relations Commission asking that the Examiner's Order be reviewed and reversed and that the City's Motion to Dismiss be granted; and AFSCME having, on November 5, 1991, filed a statement in opposition to the Motion; 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 the City of Wausau's Petition for Review is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of November, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

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

CITY OF WAUSAU

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. 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 7th day of November, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

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

1/ City of Beloit, Dec. No. 25917-C (WERC, 10/89); 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); City of Beloit, Dec. No. 25917-C (WERC, 10/89).