

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LOCAL 141, IAFF, AFL-CIO, :
 :
 :
Complainant, :
 :
 :
vs. : Case 215
 : No. 45829 MP-2493
 : Decision No. 27002-A
CITY OF GREEN BAY, THE CITY OF GREEN :
BAY COMMON COUNCIL, SAMUEL J. HALLOIN, :
MAYOR, THE GREEN BAY CITY COUNCIL :
PERSONNEL COMMITTEE, AND ALL OTHER :
ELECTED AND/OR APPOINTED OFFICIALS AS :
THEIR INTEREST MAY APPEAR, :
 :
 :
Respondents. :
 :

Appearances:

Mr. Donald A. VanderKelen, Labor Relations Consultant, 1450 Kellogg
Street, Green Bay, Wisconsin 54303, appearing on behalf of Local
141, IAFF, AFL-CIO.
Mr. Paul F. Jadin, Personnel Manager, City of Green Bay, City Hall, 100
North Jefferson, Green Bay, Wisconsin 54301, appearing on behalf of
City of Green Bay et. al.

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Local 141, IAFF, AFL-CIO, filed a complaint with the Wisconsin Employment Relations Commission on June 14, 1991, alleging that the City of Green Bay et. al., have committed prohibited practices within the meaning of Secs. 111.70(3)(a)1, 3, and 5, Stats. On September 4, 1991, the Commission appointed Richard B. McLaughlin, a member of its staff, to act as Examiner to make and issue Findings of Fact, Conclusions of Law and Order, as provided in Sec. 111.70(4)(a), and Sec. 111.07, Stats. An informal mediation on the matter was held on August 27, 1991, in Green Bay, Wisconsin. During that mediation the parties agreed that the matter could be resolved through the issuance of the following Stipulated Findings of Fact, Conclusions of Law and Order.

STIPULATED FINDINGS OF FACT

1. Local 141, IAFF, AFL-CIO, referred to below as Local 141, is a labor organization which maintains its offices in care of 1450 Kellogg Street, Green Bay, Wisconsin 54303.

2. The City of Green Bay, referred to below as the City, is a municipal employer which maintains its offices at 100 North Jefferson Street, Green Bay Wisconsin 54301.

3. The City has, in conformance with the laws of the State of Wisconsin, a Board of Police and Fire Commissioners, referred to below as the PFC, whose members have been appointed by the Mayor.

4. The PFC, in the exercise of its statutory powers, is governed by Sec. 62.13, Stats. Among the powers exercised by the PFC under Sec. 62.13, Stats.,

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are the following:

62.13 Police and fire departments. (1)
Commissioners. Each city shall have a board of police
and fire commissioners . . .

(3) CHIEFS. The Board shall appoint the . . . chief
of the fire department . . .

(4) SUBORDINATES; REEMPLOYMENT. (a) The chiefs
shall appoint subordinates subject to approval by the
board. Such appointments shall be made by promotion
when this can be done with advantage . . .

Under Sec. 62.13(5), Stats., the PFC is empowered to hear certain disciplinary actions taken against fire department employees. In exercising its powers, the PFC is to act, under Sec. 62.13(12), Stats., in a fashion which promotes the state-wide, uniform regulation of fire departments.

5. The City maintains a fire department, and is the employer of each member of that department, including each employee represented by Local 141.

6. Local 141 serves as the exclusive collective bargaining representative for certain fire fighters employed by the City in its Fire Department. To effect this role, the authorized representative(s) of Local 141 are responsible for the negotiation, on behalf of bargaining unit members, of matters of wages, hours and conditions of employment covered by Secs. 111.70 and 111.77, Stats.

7. The City, as the employer of employees represented by Local 141, has a duty to collectively bargain, within the meaning of Subchapter IV of Chapter 111 of the Wisconsin Statutes, with Local 141. The City, through its Mayor and Council, designated its Department of Personnel as its principal representative in matters involving its duty to bargain collectively with Local 141. The City has also utilized its Law Department to act as its representative in matters involving its duty to bargain collectively with Local 141.

8. The PFC lacks the authority under Sec. 62.13, Stats., to serve as the collective bargaining representative of the City regarding matters covered by Secs. 111.70 and 111.77, Stats., concerning the wages, hours and conditions of employment of employees represented by Local 141. The City has not acted to authorize the PFC to function in such a capacity.

9. The City, as the employer of employees represented by Local 141, has a duty to bargain with only the duly authorized representative(s) of Local 141 with regard to subjects including forms of discipline and the effective date of promotions. The City's Personnel Department and certain other consultants, not including the PFC, act as the City's authorized representative for such bargaining.

STIPULATED CONCLUSIONS OF LAW

1. Local 141 is a "Labor organization" within the meaning of Sec. 111.70(1)(h), Stats.

2. The City is a "Municipal employer" within the meaning of Sec. 111.70(1)(j), Stats.

3. The duty to bargain collectively, defined by Sec. 111.70(1)(a), Stats., is a mutual obligation of the City and Local 141, which can be met only through the duly authorized officers and agents of the City and of Local 141. Neither the PFC nor non-authorized individual fire department employees represented by Local 141 can serve to fulfil either the City's or the Local's duty to bargain on such matters as forms of discipline and the effective date of promotions.

STIPULATED ORDER 1/

1. Any member or members of the PFC who has or have engaged in activity which is not covered by Sec. 62.13 shall cease and desist from engaging in such activity.

2. The City will cause the attached Appendix A to be signed by the designated officials and will conspicuously post it for 30 days in places where notices to fire department bargaining unit employees are customarily posted.

Dated at Madison, Wisconsin, this 21st day of November, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Richard B. McLaughlin, Examiner

(See footnote 1/ on page 4)

1/ Any party may file a petition for review with the Commission by following the procedures set forth in Sec. 111.07(5), Stats.

Section 111.07(5), Stats.

(5) The commission may authorize a commissioner or examiner to make

findings and orders. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner the time for filing petition with the commission shall run from the time that notice of such reversal or modification is mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another 20 days for filing a petition with the commission.

APPENDIX A

NOTICE TO FIRE DEPARTMENT BARGAINING UNIT EMPLOYEES

Pursuant to a Stipulated Order of the Wisconsin Employment Relations Commission, (WERC), regarding a complaint of prohibited practices filed against the City of Green Bay et. al. (the City), by Local 141, IAFF, AFL-CIO (Local 141), you are hereby notified as follows:

1. The City and its appointed Board of Police and Fire Commissioners (PFC) recognize that the powers of the PFC are defined by Sec. 62.13, Stats.

2. The City and the PFC recognize that the PFC lacks the authority under Sec. 62.13, Stats., to assume responsibility for collectively bargaining with Local 141 regarding matters pertaining to wages, hours and conditions of employment covered by Secs. 111.70 and 111.77, Stats. Such responsibility resides not with the PFC, but with the City's designated bargaining agent, who shall deal solely with the authorized representative(s) of Local 141.

3. Neither the PFC nor individual employees represented by Local 141 who have not been authorized to act on behalf of the Local can fulfill the City's duty to bargain with Local 141. Any member or members of the PFC who has or have engaged in activity not specifically authorized by Sec. 62.13, Stats., shall immediately cease and desist from engaging in such activity.

THE CITY OF GREEN BAY

By	_____	_____
	Mayor	Date
By	_____	_____
	President, PFC	Date

THIS NOTICE SHALL REMAIN POSTED FOR 30 DAYS AND SHALL NOT BE COVERED OR OTHERWISE RENDERED UNREADABLE.