

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

:
WOOD COUNTY CORRECTIONS OFFICERS :
AND WOOD COUNTY DISPATCHERS, :
:
Complainant, : Case 107
: No. 46953 MP-2565
vs. : Decision No. 27378-A
:
LOCAL 2486 OF AFSCME, :
:
Respondent. :
:

Appearances:

James Faehling, Spokesperson, Corrections Officer, Wood County Jail, 400 Market Street, Wisconsin Rapids, Wisconsin 54494, appearing on behalf of Wood County Corrections Officers and Wood County Dispatchers.

Jack Bernfeld, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 5 Odana Court, Madison, Wisconsin 53719-1169, appearing on behalf of Local 2486 of AFSCME.

ORDER DISMISSING COMPLAINT

Wood County Corrections Officers and Wood County Dispatchers (hereinafter Complainants) filed a complaint with the Wisconsin Employment Relations Commission (hereinafter Commission) on February 4, 1992, alleging that Local 2486 of AFSCME (hereinafter Respondent) has engaged in and is engaging in prohibited practices contrary to the provisions of Chapter 111 of the Wisconsin Statutes. The Complainants seek to be removed from the Respondent bargaining unit and allowed to petition for election in accordance with Sec. 111.825(4), Stats., or to be placed in a separate bargaining unit within the Respondent bargaining unit. The parties agreed to mediation of this matter by a staff member of the Commission, but the matter remained unresolved. On or about September 4, 1992, the Commission appointed James W. Engmann, a member of its staff, as Examiner in this matter as provided in Secs. 111.70(4)(a) and 111.07, Stats. Hearing on said Complaint was scheduled for November 30, 1992. On September 14, 1992, the Respondent filed a Motion to Dismiss Complaint, alleging that the complaint is untimely and without merit and that it should be dismissed with prejudice and without a hearing. The Examiner forwarded a copy of said Motion to the Complainants, directing the Complainants to respond in writing to said Motion on or before October 2, 1992. On October 6, 1992, the Examiner

received a letter from a Spokesperson of the Complainants stating that the Complainants wished to proceed with the complaint in a timely manner and with no more delay.

The Examiner, having reviewed the record and being satisfied that the complaint should be dismissed, issues the following

ORDER 1/

1. That the complaint filed in the instant matter is hereby dismissed.
2. That the hearing in this matter scheduled for November 30, 1992, is hereby cancelled.

Dated at Madison, Wisconsin, this 27th day of October, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
James W. Engmann, Examiner

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.

WOOD COUNTY (SHERIFF'S DEPARTMENT)

MEMORANDUM ACCOMPANYING ORDER TO DISMISS

Section 111.07(14), Stats., states:

The right of any person to proceed under this section shall not extend beyond one year from the date of the specific act or unfair labor practice alleged.

On the face of the Complaint, it is clear that all of the Complainant's allegations, except one, take place in 1988 or 1989, more than one year prior to the filing of the Complaint on February 4, 1992. The allegation regarding the relationship between the Respondent's chief negotiator and the County's Undersheriff is undated; in any case, it does not state a cause of action against this Respondent upon which relief can be granted under Section 111 of the Wisconsin Statutes.

For these reasons, the Complaint is dismissed in its entirety and the hearing scheduled in this matter is cancelled.

Dated at Madison, Wisconsin, this 27th day of October, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____