

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SERVICE EMPLOYEES INTERNATIONAL	:		
UNION, LOCAL 150,	:		
	:		
Complainant,	:	Case 3	
	:	No. 49113	MP-2720
vs.	:	Decision	No.
27970-C	:		
	:		
VILLAGE OF STODDARD,	:		
	:		
Respondent.	:		
	:		

Appearances:

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by Ms. Klos, Flynn and Papenfuss, Attorneys at Law, by Mr. Jerome Klos, 318 Main Street, P.O. Box 487, LaCrosse, Wisconsin 54602-0487, on behalf of the Respondent.

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ORDER DENYING PETITION FOR REHEARING

On November 15, 1994, the Wisconsin Employment Relations Commission issued Findings of Fact, Conclusion of Law and Order in the above-entitled matter concluding that the Village of Stoddard had not violated its duty to bargain with Service Employees International Union, Local 150, by installing and requiring employes to use a time clock.

On December 5, 1994, Local 150 filed a Motion to Reconsider asserting the Commission had erroneously analyzed the facts and law. On December 15, 1994, the Village filed a written response in opposition to the Motion.

We construe the Motion to Reconsider as being a Petition for Rehearing filed pursuant to Sec. 227.49, Stats. Section 227.49(3), Stats. specifies in pertinent part that "rehearing" should be granted only on the basis of some "material" error of law or fact. We have reviewed the matter and concluded that we made no material error of law or fact. We continue to be satisfied that the record supports our finding that employes did not have Village-sanctioned flexibility as to their work schedule. Based upon this finding, we continue to be satisfied that we correctly applied the appropriate legal analysis. Thus, we make and issue the following

ORDER 1/

The Petition for Rehearing is denied.

Given under our hands and seal at the City of
Madison, Wisconsin this 27th day of December,
1994.

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

1/ 227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident,

(Footnote 1/ continues on the next page.)

(Footnote 1/ continues from the previous page.)

the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

