

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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 CITY OF LA CROSSE, :  
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 Complainant, : Case 263  
 : No. 50735 MP-2872  
 vs. : Decision No. 28081  
 :  
 LOCAL 180, SERVICE EMPLOYEES :  
 INTERNATIONAL UNION, AFL-CIO, CLC, :  
 :  
 Respondent. :  
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 LOCAL 180, SERVICE EMPLOYEES :  
 INTERNATIONAL UNION, AFL-CIO, CLC, :  
 :  
 Complainant, : Case 264  
 : No. 50736 MP-2873  
 vs. : Decision No. 28082  
 :  
 CITY OF LA CROSSE, :  
 :  
 Respondent. :  
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Appearances:

Davis, Birnbaum, Marcou, Seymour & Colgan, Attorneys at Law, by Mr. James G. Birnbaum, Community Credit Union Building, 2025 South Avenue, Suite 200, P.O. Box 1297, LaCrosse, Wisconsin 54602-1297, on behalf of Local 180.  
Mr. James W. Geissner, Personnel Director, 400 LaCrosse Street, LaCrosse, Wisconsin 54601, on behalf of the City.

ORDER DENYING MOTION TO CONSOLIDATE CASES

On March 21, 1994, City of LaCrosse (hereafter City) filed a complaint of prohibited practices against Local 180, SEIU, AFL-CIO, CLC (hereafter Union). On April 1, 1994 the Union filed a complaint of prohibited practices against the City. On April 19, 1994, the City requested that the Wisconsin Employment Relations Commission consolidate these cases for hearing "as they both relate to a similar issue." On April 29, 1994 Examiner Sharon A. Gallagher requested

No. 28081  
 No. 28082

that the Union file a written position regarding consolidation by May 11, 1994.  
On May 10, 1994 the Union filed its position objecting to consolidation on the ground inter alia that ". . . these prohibited practices complaints do not arise out of the same factual basis."

ORDER

The City's Motion to Consolidate is denied.

Given under our hands and seal at the City of  
Madison, Wisconsin this 20th day of June, 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

MEMORANDUM ACCOMPANYING ORDER DENYING  
MOTION TO CONSOLIDATE CASES

The complaint filed by the City in Case 263, No. 50735, MP-2872 alleges that the Union has failed to abide by a settlement agreement reached on August 5, 1993 which inter alia, required the Union to cooperate with the City in selecting a consultant to perform a pay and classification study for Union members. This complaint also alleges that the Union failed to submit written contract proposals by March 9, 1994 to amend the 1994-95 labor agreement as directed by the WERC mediator and that the Union filed a petition for mediation-arbitration on March 9, 1994 without first submitting the aforementioned written contract proposals.

The complaint filed by the Union in Case 264, No. 50736, MP-2873 alleges that the City refused to arbitrate a grievance "involving part-time employes at the Civic Center," that it refused to arbitrate "the Tom Rose grievance" and that it refused to arbitrate "a case dealing with five janitors at the Civic Center."

ERB 10.07 provides that whenever the ". . . Commission deems it necessary, in order to effectuate the purposes of Sec. 111.70, Stats. or to avoid unnecessary costs or delay, it may remove or transfer any proceeding before a single Commission member or examiner." As a general matter, the Commission has ordered consolidation of cases where the facts and circumstances underlying the cases are sufficiently interrelated and the witnesses are substantially the same.

The cases at issue do not arise out of the same set of facts and circumstances or have a strong overlap of issues. It would therefore not effectuate the purposes of Sec. 111.70, Stats. or avoid unnecessary costs or delays to consolidate the two cases for a common hearing before a single WERC examiner.

Case 264 alleges only three refusals to arbitrate against the City while Case 263 alleges that the Union violated a settlement agreement unrelated to Case 264 and certain bad faith bargaining by the Union relating to negotiations for the 1994-95 labor contract between the City and the Union. Therefore, they shall not be considered.

Dated at Madison, Wisconsin this 20th day of June, 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

