

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN STATE EMPLOYEES UNION
(WSEU), AFSCME, COUNCIL 24, AFL-CIO,

Complainant,

vs.

STATE OF WISCONSIN, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case 385

No. 51877 PP(S)-233

Decision No. 28378-B

Appearances:

Mr. Richard V. Graylow with briefing by Mr. John C. Talis, Lawton & Cates, S.C., 214 West Mifflin Street, PO Box 2965, Madison, WI 53701-2965, appearing on behalf of the Complainant Union.

Mr. Mark Wild, Attorney at Law, Wisconsin Department of Employment Relations, Office of Legal Counsel, 137 East Wilson Street, PO Box 7855, Madison, WI 53707-7855, appearing on behalf of the Respondent Employer.

EXAMINER'S ORDER MODIFYING
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On October 10, 1995, the undersigned Examiner issued Findings of Fact, Conclusions of Law and Order dismissing a complaint filed on November 30, 1994, by the above-named Complainant Union alleging that the above-named Respondent Employer had committed and was committing unfair labor practices within the meaning of Secs. 111.84(1)(a) and (e), Stats., of the State Employment Labor Relations Act (herein SELRA).

On October 24, 1995, Counsel for Respondent wrote the Examiner with a copy to opposing Counsel pointing out a typographical error in Conclusion of Law 3 of that decision and requesting that the Examiner correct that error. The Examiner is satisfied that Conclusion of Law 3 contains errors that can and should be corrected by the Examiner.

Because 20 days have not passed since the issuance of the decision, the Examiner finds it appropriate to correct the typographical error by issuing the following

No. 28378-B

ORDER 1/

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

1. The Examiner's October 10, 1995, Findings of Fact, Conclusions of Law, and Order

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.

This decision was placed in the mail on the date of issuance (i.e. the date appearing immediately above the Examiner's signature).

are hereby modified to change "Kleman award" to "Kleman grievance" in line 2 and to add the word "not" between "did" and "commit" in lines 5 and 6 of Conclusion of Law 3 on page 9. As modified, Conclusion of Law 3 reads as follows:

3. The Employer, by its refusal to grant the relief requested in the Kleman grievance and its consequent failure to give the Zeidler award res judicata effect with respect to the Kleman grievance, did not fail or refuse to "accept the terms of an arbitration award where previously the parties have agreed to

accept such award as final and binding" in violation of Sec. 111.84(1)(e) or in derivative violation of Sec. 111.84(1)(a), Stats., and therefore did not commit an unfair labor practice in violation of those provisions of SELRA.

2. The remainder of the Examiner's Findings of Fact, Conclusions of Law and Order and Accompanying Memorandum remain as issued on October 10, 1995.

Dated at Shorewood, Wisconsin this 25th day of October, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Marshall L. Gratz /s/
Marshall L. Gratz, Examiner