

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

STEVE PRELLER, Complainant,

vs.

**STATE OF WISCONSIN, DEPARTMENT OF EMPLOYMENT RELATIONS;
UW HOSPITAL & CLINICS SUPERINTENDENT GORDON DERZON; UWHC
PUBLIC AUTHORITY GOVERNING BOARD; GREG KRAMP; RENAE BUGGE;
NEAL STRANGER; DON KLIMPEL; BOB SCHEUER**, Respondents.

Case 430
No. 54593
PP(S)-263

Decision No. 28938-E

Appearances:

Ms. Jennifer A. Peshut, 730 East Burleigh Street, Milwaukee, Wisconsin 53212, appearing on her own behalf.

Mr. Steve Preller, 135 South Marquette Street, Apartment 1, Madison, Wisconsin 53704, appearing on his own behalf.

vonBriesen, Purtell & Roper, S.C., by **Attorney Doris E. Brosnan**, 411 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, appearing on behalf of UWHC Public Authority Governing Board and the individually-named Respondents.

Lawton & Cates, S.C., by **Attorney P. Scott Hassett**, Ten East Doty Street, Suite 400, P.O. Box 2965, Madison, Wisconsin 53701-2965, appearing on behalf of Intervenor Local 171, Wisconsin State Employees Union, AFSCME, Council 24, AFL-CIO.

ORDER DENYING MOTION TO INTERVENE

On September 9, 1999, Jennifer A. Peshut filed a motion to intervene in the above matter that is currently pending before the Wisconsin Employment Relations Commission on rehearing.

No. 28938-E

The parties thereafter filed written argument in support of and in opposition to the motion, the last of which was received October 26, 1999.

Having considered the matter and being fully advised in the premises, we make and issue the following

ORDER

The motion to intervene is denied.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of December, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

Department of Employment Relations (UW Hospital & Clinics)

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO INTERVENE

POSITIONS OF THE PARTIES

Peshut

Peshut argues that the central issue before the Commission on rehearing is the right of State employees to present grievances through representatives of their own choosing. She contends she has a substantial interest in her own ability as a State employee to present grievances and asserts she was covered by the same 1995-1997 contract which is being litigated on rehearing. She therefore alleges she has a right to intervene in the rehearing proceeding.

In response to the arguments filed by the existing parties on rehearing, Peshut contends that the change in contractual language and the content of the complaints she has filed with the Commission are both irrelevant to her right to intervene.

Respondents

Respondents contend Peshut's motion to intervene should be denied because her interest in the matter is not sufficient.

Respondents argue that the 1997-1999 WSEU/State of Wisconsin contract covering Peshut's employment does not contain the contract language from the 1995-1997 WSEU/State of Wisconsin contract language being litigated on rehearing. Respondents further assert Peshut has not claimed that she has any ongoing grievance dispute which arose under the disputed 1995-1997 contract language. Respondents also note that Preller is now employed by the University of Wisconsin Hospital Board and thus is not in any event covered by the 1997-1999 WSEU/State of Wisconsin contract. Under these circumstances, Respondents assert Peshut's claimed interest in this matter is not sufficient to warrant intervention.

Intervenor WSEU

WSEU argues that Peshut's motion should be denied because the interest she asserts is insufficient to warrant her intervention.

WSEU asserts Peshut's claim that she was once covered by the same language being litigated on rehearing does not distinguish her from some 24,000 other State employees. More importantly in WSEU's view is the fact that Peshut is no longer covered by the contract language being litigated. Thus, WSEU notes that the unfair labor practice complaints filed by Peshut with the Commission involve incidents in August and September 1998 -- a time when the rehearing contract language no longer covered Peshut's employment. Given the foregoing, Peshut's motion should be denied.

Complainant

Complainant Preller argues Peshut's motion to intervene should be denied.

Preller contends that Peshut has not identified how her interests are directly impacted by the rehearing case. Like Respondents and WSEU, Preller alleges that Peshut is no longer covered by the contract language in dispute and that her complaint cases also involve a period of time covered by different contract language. Preller further asserts that intervention is undesirable because it will likely cause additional delay and confusion in this case. Given the foregoing, Preller urges the rejection of Peshut's motion to intervene.

DISCUSSION

The Commission treats a motion to intervene in a complaint case as an application for "party in interest" status under Sec. 111.07(2)(a), Stats. ROCK COUNTY, DEC. NO. 28494-B (WERC, 11/96).

When considering motions to intervene as a party in interest under Sec. 111.07(2), Stats., we have generally held that "the applicant's claim of interest must relate to issues in controversy before a motion to intervene will be granted." ASHLAND COUNTY, DEC. NO. 14461-A (WERC, 4/76). In MILWAUKEE BOARD OF SCHOOL DIRECTORS, DEC. NO. 16635-B (WERC, 1/83), relying in large part on CHAUFFEURS, TEAMSTERS & HELPERS GENERAL UNION v. WERC, 51 Wis.2d 391 (1971), we held that "interest" as used in Sec. 111.07(2), Stats., "means something more than to be affected by or interested in the outcome."

Peshut does not dispute that she is no longer covered by the contract language in dispute on rehearing or that her own unfair labor practice complaints filed with the Commission are not covered by said language. Thus, the interest she identifies in this proceeding is a generic one. She is supportive of and interested in the position Preller is advancing in this litigation regarding employees' rights to process grievances.

As noted above, in MILWAUKEE BOARD OF SCHOOL DIRECTORS, we held that the level of “interest” required to become a “party” is greater than being “interested in” the outcome of the dispute. In our view, the interests Peshut has identified do not rise above this “interested in” standard. Therefore, we have denied her motion to intervene.

Dated at Madison, Wisconsin this 7th day of December, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner