

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

GENERAL TEAMSTERS UNION, LOCAL NO. 662,

Complainant,

vs.

EAU CLAIRE COUNTY,

Respondent.

Case 192

No. 54897 MP-3269

Decision No. 29131-A

ORDER DENYING REQUEST TO HOLD
HEARING IN ABEYANCE

On February 11, 1997, Complainant Union filed a complaint with the Wisconsin Employment Relations Commission which alleged that Eau Claire County had committed prohibited practices in violation of Sections 111.70(3)(a)1, 3, 4, and 5 when it refused to arbitrate the John Rizzo discharge grievance. The factual allegations pertinent herein are as follows: that the Sheriff informed Deputy Sheriff John Rizzo that he planned to recommend to the County's Personnel Committee that Rizzo's employment be terminated as a result of certain conduct; that thereafter the County's Personnel Committee conducted a hearing concerning Rizzo's complained of conduct; that the Personnel Committee subsequently issued a decision terminating Rizzo; that Rizzo was subsequently discharged from his employment with the County in November, 1996; that thereafter the Union grieved his discharge pursuant to a collective bargaining agreement between it and the County; and that the County subsequently refused to arbitrate the grievance challenging Rizzo's discharge. The Union seeks to have the Commission direct the County to proceed to arbitration on the grievance. No hearing date has been set. On May 20, 1997, the Respondent filed a request to hold the complaint in abeyance pending the Wisconsin Supreme Court disposition of Michael D. Milas, et al. v. The Labor Association of Wisconsin, Inc. et al. The Labor Association of Wisconsin, Inc. et al. v. Michael D. Milas, et al., Case No. 96-1197. On June 18, 1997, the Complainant notified the Examiner in writing that it opposed the Respondent's request to hold the complaint in abeyance. The Examiner has decided that the Respondent's request to hold the complaint in abeyance until the Milas decision is issued should be denied. Accordingly, the Examiner issues the following

No. 29131-A

ORDER

The Respondent's request to hold the complaint in abeyance pending the Supreme Court disposition of Michael D. Milas, et al. v. The Labor Association of Wisconsin, Inc., et al. The Labor Association of Wisconsin, Inc., v. Michael D. Milas, et al., is denied. This case will therefore proceed.

Dated at Madison, Wisconsin, this 8th day of July, 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Raleigh Jones /s/
Raleigh Jones, Examiner

EAU CLAIRE COUNTY (SHERIFF'S DEPARTMENT)

MEMORANDUM ACCOMPANYING ORDER DENYING REQUEST
TO HOLD HEARING IN ABEYANCE

Wisconsin Administrative Code Section ERC 10.13(2) provides that the Commission may reschedule the date of a (complaint) hearing upon the showing of proper cause by any party. Since the Commission can reschedule a hearing date upon the showing of proper cause, it follows that it can also hold a complaint in abeyance upon the showing of proper cause.

The Respondent requests that this complaint be held in abeyance pending the Supreme Court disposition of Michael D. Milas et al. v. the Labor Association of Wisconsin, Inc., et al. The Labor Association of Wisconsin, et al. v. Michael D. Milas, et al., Case 96-1197. The Respondent avers without elaboration that the issue in that case "is identical to that in this case." The Complainant opposes the request.

After considering the matter, the Examiner finds that proper cause has not been shown for holding the complaint in abeyance. My rationale for so finding is as follows. While the County asserts that the issue in the Milas case is identical to that in this case, that has not been established. It appears from the submissions filed to date in this matter that in Milas the parties went to arbitration and then later the grievant requested a review before the County's Law Enforcement Committee. Here, though, the parties have neither gone to arbitration nor has the grievant requested a review of his discharge before the County's Law Enforcement or Personnel Committee. Given these factual differences, it is not certain that a decision from the Wisconsin Supreme Court in the Milas case would be dispositive of this case. That being so, the Examiner sees no need to wait for the resolution of the Milas case before proceeding with this case. This case will therefore proceed. The Respondent is directed to file their answer to the complaint by July 21, 1997.

Dated at Madison, Wisconsin, this 8th day of July, 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Raleigh Jones /s/
Raleigh Jones, Examiner