

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LARRY J. ROBINSON, Complainant,

vs.

MILWAUKEE PUBLIC SCHOOLS
and **MILWAUKEE TEACHERS EDUCATION ASSOCIATION**, Respondents.

Case 369
No. 56811
MP-3457

Decision No. 29482-A

ORDER DISMISSING COMPLAINT

Larry J. Robinson having, on September 14, 1998, filed a complaint with the Wisconsin Employment Relations Commission alleging that Milwaukee Public Schools and Milwaukee Teachers Education Association had committed prohibited practices within the meaning of Secs. 111.70(3)(a)1, 3 and 5 and 111.70(3)(b) of the Municipal Employment Relations Act by Milwaukee Public Schools' non-renewing Complainant's probationary teaching contract and the Milwaukee Teachers Education Association failing to fairly represent Complainant on his grievance regarding his non-renewal. Sharon A. Gallagher was appointed as Examiner on November 5, 1998. The case was initially scheduled for hearing on January 21, 1999, but the place was changed at the Complainant's request. Hearing was held on January 21, 1999. During the proceedings, Complainant threatened to leave the hearing twice in response to adverse rulings by the Examiner. The Examiner advised Complainant each time he threatened to leave that if he left the hearing before it concluded, his case would be subject to a motion to dismiss, and that Complainant would not have a right to refile regarding the same allegations if the case were dismissed. Thereafter, Complainant remained at the hearing and participated fully therein.

At the end of the day on January 21st, after four of Complainant's witnesses had been fully examined, and 14 exhibits were received into the record, Complainant chose to leave the hearing prior to its conclusion. Complainant chose to leave after the Examiner refused to require the Superintendent of MPS to appear to testify. Complainant had failed to properly subpoena the Superintendent and the Superintendent had no personal knowledge of the specifics of the case. (Other witnesses scheduled to testify had personal knowledge of the case.) Complainant also indicated he would not attend the next days of hearing (tentatively scheduled for March 29 through March 31, 1999), and after being again advised by the Examiner of the consequences of his actions, indicated that he knew that his case would be dismissed if he left the hearing prior to its conclusion. Respondents then moved to dismiss the complaint. The Examiner granted Respondents' motion based upon Complainant's abandonment of his action and his refusal to further prosecute his case, with full knowledge of the consequences of his actions.

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Therefore, the Examiner being satisfied that the complaint should be dismissed;

NOW, THEREFORE, it is

ORDERED

That the complaint filed in the instant matter be, and the same hereby is, dismissed.

Dated at Oshkosh, Wisconsin, this 3rd day of February, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Sharon A. Gallagher /s/

Sharon A. Gallagher, Examiner