

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-3467

Decision No. 29482-C

Appearances:

Mr. Larry T. Robinson, 9906 West Magnolia Street, Milwaukee, Wisconsin 53224, appearing on his own behalf.

Attorney Donald L. Schriefer, Assistant City Attorney, City of Milwaukee, 800 City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202-3551, appearing on behalf of the Milwaukee Public Schools.

Perry, Lerner & Quindel, S.C., by **Attorney Richard Perry**, 823 North Cass Street, Milwaukee, Wisconsin 53202, appearing on behalf of the Milwaukee Teachers Education Association.

ORDER DENYING MOTION FOR RECONSIDERATION

On February 3, 1999, Examiner Sharon A. Gallagher issued an Order Dismissing Complaint in the above matter based on "Complainant's abandonment of his action and his refusal to further prosecute his case . . .".

On May 7, 1999, the Wisconsin Employment Relations Commission issued an Order Reversing Examiner's Dismissal of Complaint in the above matter. That Order was based on our determination that Complainant had not refused to proceed with the prosecution of his case.

On May 24, 1999, Respondent Milwaukee Teachers' Education Association (MTEA) filed a motion seeking reconsideration of our May 7, 1999 decision. In its motion, Respondent MTEA asserts that our Order incorrectly ignored Complainant's abusive and dangerous behavior during the hearing. Respondent MTEA argues that Complainant's behavior constituted an abuse of the WERC's process and formed an independent and sufficient basis for dismissal of the complaint. Respondent MTEA contends that if the Commission fails to

dismiss the complaint, the Commission must at least take steps to protect the safety of all participants during future hearings.

On June 1, 1999, Respondent Milwaukee Board of School Directors filed a statement in support of the motion for reconsideration.

On June 1, 1999, Complainant filed a statement in opposition to the motion.

We have considered the motion and conclude that it should be denied.

As was noted by all Commissioners, from our review of the hearing transcript, it was apparent to us that “. . . the first day of hearing had been a difficult and emotional one for all concerned.” That transcript also states the Examiner’s view that Complainant behaved in a way which “a normal person would find threatening.” However, particularly where, as here, the allegedly threatening conduct did not form the basis for the Examiner’s dismissal of the complaint, we did not and do not find there to be sufficient evidence of abusive behavior in the record to warrant dismissal of the complaint.

This is not to say that hearing examiners (or counsel) should be required to put up with unruly, contumacious, or intimidating conduct of a party appearing pro se. The rules governing an orderly hearing procedure do not change merely because one of the parties chooses not to be represented by counsel. If the conduct of a party electing to proceed pro se becomes so disorderly, threatening, or disrespectful as to cause the hearing to become unmanageable, dismissal is warranted.

The first day of hearing was held in the Milwaukee State Office Building. As we have already advised the parties and as Complainant himself notes in response to Respondent MTEA’s motion, the Capitol Police have an office in the building. Thus, we are satisfied that should the need for a law enforcement presence arise during future hearings, appropriate resources are at the Examiner’s disposal.

Given under our hands and seal at the City of Madison, Wisconsin this 10th day of June, 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