

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Request of

SANDRA ANDERSON

Involving a Dispute Between Anderson and

MORAINÉ PARK TECHNICAL COLLEGE

and

MORAINÉ PARK FEDERATION OF TEACHERS

Case A/P M-86-39

Case A/P M-86-179

Decision No. 30090

Appearances:

Ms. Sandra A. Anderson, 816 Neufeld Street, Green Bay, Wisconsin 54304, appearing on her own behalf.

Edgerton, St. Peter, Petak, Massey & Bullon, by **Attorney Paul W. Rosenfeldt**, 10 Forest Avenue, Fond du Lac, Wisconsin 54936-1276, appearing on behalf of Moraine Park Technical College.

ORDER

On September 25, 2000, Sandra A. Anderson, a former employee of Moraine Park Technical College, filed a request with the Wisconsin Employment Relations Commission pursuant to Sec. 111.63, Stats., asking that the Commission enforce a grievance arbitration award issued by Arbitrator R. U. Miller on August 29, 1986. (A/P M-86-39)

The Miller award concluded that the College had violated a collective bargaining agreement between the College and the Moraine Park Support Staff Association (WEAC), the union representing certain support staff employees. Miller ordered that the College take certain

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action including removal of discipline from the files of “other such employees disciplined pursuant to the new absenteeism work rules.” Although Anderson acknowledges that she was not covered by the collective bargaining agreement before Arbitrator Miller and was represented for the purposes of collective bargaining by the Moraine Park Federation of Teachers, she argues the College was nonetheless obligated under the Miller award to remove absenteeism-related discipline from her record. Had the College done so, Anderson asserts her discharge from the College would not have been upheld by Arbitrator Kessler in a subsequent arbitration award. (A/P M-86-179)

The College filed a statement in opposition to Anderson’s request. The College argues that Anderson’s action violates an existing injunction and that the union which prosecuted the Miller arbitration has standing to enforce the award – not Anderson.

Neither the Association nor the Federation chose to take a position on Anderson’s request.

On February 22, 2000, Anderson filed additional argument in support of her request.

Sections 111.50 – 111.64, Stats., establish procedures for resolution of collective bargaining disputes between public utility employers and unions representing public utility employees. Anderson cites Sec. 111.63, Stats., which specifically provides:

111.63 Enforcement. The commission shall enforce compliance with this subchapter and to that end may file an action in the circuit court of the county in which any violation of this subchapter occurs to restrain and enjoin the violation and to compel the performance of the duties imposed by this subchapter. In any action described in this section, ss. 103.505 to 103.61 do not apply.

However, because Anderson was a municipal employee covered by Sec. 111.70, Stats., and not a public utility employee covered by Secs. 111.50-111.64, Stats., her employment is not covered by Sec. 111.63, Stats.

Further, in *AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY & MOTOR COACH EMPLOYEES OF AMERICA, DIVISION 998 v. WISCONSIN EMPLOYMENT RELATIONS COMMISSION*, 340 U.S. 383 (1951), the United States Supreme Court held that Secs. 111.50 - 111.64, Stats., were pre-empted by the National Labor Relations Act and thus were invalid.

Thus, we have no authority to proceed to consider the merits of Anderson’s request.

Therefore, we make and issue the following

ORDER

Sandra A. Anderson's request is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 15th day of March, 2001.

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

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