

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**LOCAL 882, AFFILIATED WITH
MILWAUKEE DISTRICT COUNCIL 48,
AFSCME, AFL-CIO, Complainant.**

vs.

MILWAUKEE COUNTY, Respondent.

Case 505
No. 59924
MP-3735

Decision No. 30179-A

Appearances:

Mr. Kenneth J. Murray, Podell, Ugent & Haney, Attorneys at Law, 611 North Broadway, Suite 200, Milwaukee, Wisconsin 53202-5004, for the labor organization

Mr. Timothy R. Schoewe, Deputy Corporation Counsel, Milwaukee County, Milwaukee County Courthouse, Room 303, 901 North Ninth Street, Milwaukee, Wisconsin 53233, for the municipal employer.

ORDER GRANTING IN PART AND DENYING IN PART
MOTION TO QUASH SUBPOENA DUCES TECUM

On May 7, 2001, Local 882, Affiliated with Milwaukee District Council 48, AFSCME, AFL-CIO ("the union") filed a complaint with the Wisconsin Employment Relations Commission alleging that Milwaukee County ("the county") had committed various prohibited practices in its administration of certain leave and vacation policies affecting maintenance workers at Mitchell International Airport. Hearing in the matter was held in Milwaukee, Wisconsin on July 25, 2001, before Hearing Examiner Stuart D. Levitan, a member of the commission's staff. Near the close of the hearing, complainant's attorney, Mr. Kenneth Murray, stated a desire to obtain certain documents from the respondent, to which the respondent's attorney, Mr. Timothy Schoewe, indicated opposition. On September 18, 2001,

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Mr. Murray filed a Motion to Obtain a Subpoena Duces Tecum. On September 20, 2001, Mr. Schoewe wrote to request time in which to respond to the motion, which I granted. Mr. Schoewe filed written statement of opposition to the motion on October 22, 2001. On November 7, 2001, I wrote to Mr. Murray seeking a statement of what documents he sought through the subpoena; Mr. Murray submitted such a list on November 19, 2001. On December 14, 2001, I wrote to Mr. Murray to inform him that Mr. Schoewe had informed me he could find no record of receiving a copy of this letter, which I provided to him. On January 9, 2002, Mr. Schoewe reiterated his opposition to the subpoena. Being fully advised in the premises, I now and hereby issue the following

ORDER GRANTING IN PART AND DENYING IN PART
MOTION TO QUASH A SUBPOENA DUCES TECUM

I. The Motion to Quash Subpoena is DENIED as it relates to the following material:

1. Daily Duty Roster a/k/a Job Assignment Sheets for all airport maintenance workers, regular and temporary appointees, for pay periods 24 through 26 in 2000 and 1 through 8 in 2001 reflecting

- a. Job assignment of each employee
- b. The hours worked on each daily assignment

2. Work orders requiring repairs, overhaul or routine maintenance of a baggage carousel, during the period March 15 to March 31, 2001, including record of request for needed repairs, if any; notice of breakdown and work required to repair; numbers of personnel assigned to task by day and hours per day involved.

II. The Motion to Quash Subpoena is GRANTED as it relates to the following material:

1. Payroll sheets, a/k/a Firms, for pay period noted in item 1 reflecting

- a. Hours worked per day
- b. Overtime usage by employee and shift;
- c. Off time allowed;
- d. Basis for off time allowed

2. Overtime hours incurred during period March 15 – March 31, 2001, including names of personnel earning the overtime, the work assignments for which overtime was assigned and the specific days and hours involved.

3. Names of temporary employees assigned to work with airport maintenance as of November 1, 2000 and through March 31, 2001, including the number of days and hours per day worked by each employee during the period defined and, in addition, the number of “off” days allowed each of said employees, including the basis for the time off of work.

III. The Respondent shall submit the material under subpoena to the Examiner with copies to the Complainant by February 7, 2002.

Dated at Madison, Wisconsin, this 16th day of January, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Stuart Levitan /s/

Stuart Levitan, Examiner

MILWAUKEE COUNTY

MEMORANDUM ACCOMPANYING ORDER
GRANTING IN PART AND DENYING IN PART
MOTION TO QUASH SUBPOENA DUCES TECUM

Sec. 227.45(1), Wis. Stats., which regulates the taking of evidence and providing of official notice in a contested case such as the proceeding before me, directs hearing examiners to “exclude immaterial, irrelevant or unduly repetitious testimony or evidence that is inadmissible under s. 901.05.” The complainant has requested a series of documents and payroll records, some of which go far beyond the purpose stated at hearing, namely the impeachment of respondent’s witnesses on the precise question of the number of airport maintenance workers who were allowed off during prior winter seasons. After extensive review of the record of this proceeding, including the transcript of the hearing, and consideration of the parties’ written arguments, I have denied the motion to quash the subpoena for those documents which are relevant and material to this proceeding, and granted the motion to quash for those documents which are neither.

Dated at Madison, Wisconsin, this 16th day of January, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Stuart Levitan /s/

Stuart Levitan, Examiner