

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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**PETER CRIVELLO**, Complainant,

vs.

**WEST ALLIS/WEST MILWAUKEE SCHOOL DISTRICT**, Respondent.

Case 82  
No. 58740  
MP-3634

**Decision No. 30259**

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Appearances:

Cross Law Firm, S.C., by **Attorney Nola J. Hitchcock Cross**, The Lawyers' Building, 845 North 11<sup>th</sup> Street, Milwaukee, WI 53233, appearing on behalf of Peter Crivello.

Davis & Kuelthau, S.C., by **Attorney John E. Murray**, Suite 1400, 111 East Kilbourn Avenue, Milwaukee, WI 53202-6613, appearing on behalf of West Allis-West Milwaukee School District.

**ORDER DENYING MOTION TO DISMISS**

On April 4, 2000, Peter Crivello filed a complaint with the Wisconsin Employment Relations Commission alleging that the West Allis-West Milwaukee School District had "violated State Statute 111.70(3)" by failing to promote him because of his role

. . . in unionizing the West Allis-West Milwaukee Recreation Department, and my support of the American Federation of State, County and Municipal Employees, Milwaukee District Counsel (sic) 48, Local 80."

On May 3, 2000, the District filed a response to the complaint asking that it be dismissed.

The parties thereafter proceeded before Arbitrator Dichter who issued an award on April 16, 2001, concluding that a grievance filed by Crivello regarding the denial of his promotion was untimely.

On May 29, 2001, Crivello filed a request with the Wisconsin Employment Relations Commission asking that the complaint be set for hearing.

On June 11, 2001, the District filed a response asking that the complaint be dismissed because the Dichter award was dispositive of the complaint.

On December 10, 2001, Crivello filed written argument in support of his request that the complaint be scheduled for hearing.

On December 17, 2001, the District filed responsive written argument again asking that the complaint be dismissed.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following:

**ORDER**

The motion to dismiss is denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 14th day of January, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

**West Allis/West Milwaukee School District**

**MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO DISMISS**

There is no Commission Order that deferred the Crivello complaint to grievance arbitration. Thus, the question of whether the result of the arbitration proceeding bars Crivello from proceeding on his complaint is answered by the terms of any agreement reached by the parties. We do not have any such agreement before us. Under these circumstances, we have no basis for dismissing the complaint. The complaint will be assigned to an examiner for further processing.

Given under our hands and seal at the City of Madison, Wisconsin, this 14th day of January, 2002.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner