

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
MICHAEL RAPP AND SCOTT BOESE

Involving Certain Employees of
WAUKESHA COUNTY

Case 166
No. 60692
ME-3856

Decision No. 30269-A

In the Matter of the Petition of
MICHAEL RAPP AND SCOTT BOESE

Involving Certain Employees of
WAUKESHA COUNTY

Case 29
No. 60691
ME-3855

Decision No. 14157-E

Appearances:

Mr. Scott Boese, S103 W36915 Cty Trk 20, Eagle, Wisconsin 53119, and **Mr. Michael Rapp**, S. 72 W13701 Woods Road, Muskego, Wisconsin 53150, appearing on their own behalf.

Michael, Best & Friedrich, by **Attorney Scott C. Beightol**, 100 East Wisconsin Avenue, Suite 3300, Milwaukee, Wisconsin 53202-4108, appearing on behalf of Waukesha County.

Mr. Dave Berg, Business Representative, Teamsters "General" Local Union No. 200, 6200 West Bluemound Road, P.O. Box 2073, Milwaukee, Wisconsin 53201, appearing on behalf of Teamsters "General" Local Union No. 200.

Dec. No. 30269-A
Dec. No. 14157-E

ORDER DISMISSING PETITION FOR ELECTION

On February 8, 2002, Scott Boese and Michael Rapp filed a petition and showing of interest with the Wisconsin Employment Relations Commission seeking an election in a collective bargaining unit of mechanics employed by Waukesha County. The petition asserts that the mechanics are currently included in a Waukesha County Highway Department bargaining unit represented by Teamsters Local 200.

On March 11, 2002, Waukesha County filed a response to the petition asserting that the petition should be dismissed as untimely filed due to the pendency of an interest arbitration covering the Highway Department bargaining unit.

On March 25, 2002, Boese and Rapp filed a statement in support of their petition arguing that the petition should be found timely filed because there is no Highway Department contract in effect between the County and Teamsters Local 200.

On March 25, 2002, Teamsters Local 200 advised the Commission in writing that it took no position as to the timeliness of the election petition.

By letter dated March 26, 2002, the Commission advised the parties pursuant to Sec. 227.45(3), Stats., that when considering the question of whether the petition was timely filed, it proposed to take official notice of the interest arbitration petition filed on February 4, 2002 by Teamsters Local 200 as to the Highway Department unit. The Commission further advised the parties that if they wished to comment on or object to the Commission's taking notice of the interest arbitration petition, they should so advise the Commission on or before April 8, 2002. No comment or objection was received. We hereby take official notice of the February 4, 2002 interest arbitration petition.

By Order dated January 30, 2002, we dismissed as untimely an earlier election petition filed by Boese and Rapp because a contract between the County and Teamsters Local 200 was in effect at the time that petition was filed on December 17, 2001. WAUKESHA COUNTY, DEC. NO. 30269 (WERC, 1/2002). Boese and Rapp argue that this timeliness objection no longer applies because there was no contract in effect when their February 8, 2002 petition was filed.

However, as argued by the County, the Commission has consistently held that where, as here, a petition for interest arbitration has been filed (February 4, 2002) before an election petition is received (February 8, 2002), the pendency of the interest arbitration petition renders the election petition untimely. MUKWONAGO SCHOOLS, DEC. NO. 24600 (WERC, 6/87).

We remain persuaded that the holding of MUKWONAGO SCHOOLS and the prior Commission cases cited therein express the appropriate balance between stability in collective bargaining relationships and the right of employees to bargain collectively through representatives of their own choosing. Therefore, because the Teamsters' interest arbitration petition had been filed prior to our receipt of the election petition, we dismiss the election petition as untimely.

Given under our hands and seal at the City of Madison, Wisconsin, this 22nd day of April, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Steven R. Sorenson /s/

Steven R. Sorenson, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner