

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

THE ASSOCIATION OF MENTAL HEALTH SPECIALISTS

Requesting a Declaratory Ruling Pursuant to Section 111.70(4)(b), Wis. Stats.,
Involving a Dispute Between Said Petitioner and

ROCK COUNTY

Case 351
No. 62889
DR(M)-643

Decision No. 30787

Appearances:

John S. Williamson, Jr., Attorney at Law, 103 West College Avenue, Suite 1203, Appleton, Wisconsin 54911, appearing on behalf of the Association of Mental Health Specialists.

Eugene R. Dumas, Deputy Corporation Counsel, Rock County, Courthouse, 51 South Main Street, Janesville, Wisconsin 53545, appearing on behalf of Rock County.

ORDER DENYING MOTION TO DISMISS

On October 17, 2003, the Association of Mental Health Specialists filed a petition with the Wisconsin Employment Relations Commission pursuant to Sec. 111.70(4)(b), Stats., seeking a declaratory ruling as to whether it has a duty to bargain with Rock County over certain matters.

On October 31, 2003, the County filed its response to the petition which included a motion to dismiss the petition because a declaratory ruling would not provide “guidance to parties around Wisconsin” and “would denigrate other procedures available to the parties for resolution of the dispute.”

On November 7, 2003, the Association filed a response to the motion which asserted that the County’s bases for dismissal are not applicable to a petition for declaratory ruling filed pursuant to Sec. 111.70(4)(b), Stats.

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The Association is correct. When deciding whether to exercise its discretionary jurisdiction over a declaratory ruling petition filed pursuant to Sec. 227.41, Stats., the Commission considers the factors cited by the County. SEE UW HOSPITAL AND CLINICS AUTHORITY, DEC. NO. 29889 (WERC, 5/00). By contrast, if there is a duty to bargain dispute and a Sec. 111.70(4)(b), Stats., petition for declaratory ruling is timely filed, Sec. 111.70(4)(b), Stats., provides that the Commission “shall” resolve the dispute.

Given the foregoing, we make and issue the following

ORDER

The motion to dismiss is denied.

Given under our hands and seal at the City of Madison, Wisconsin, this 30th day of January, 2004.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner