

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JERRY M. KLEMA, Complainant,

vs.

WINGRA REDI-MIX, INC., Respondent.

Case 3
No. 58899
Cw-3670

Decision No. 31056-E

Appearances:

Jerry M. Klema, 4212 Oak Street, McFarland, Wisconsin 53558, appearing on behalf of himself.

Peter Richter, Stroud, Willink & Howard, LLC, Attorneys at Law, 25 West Main Street, Suite 300, Madison, Wisconsin 53701-2236, appearing on behalf of Wingra Redi-Mix, Inc.

ORDER DISMISSING INTERLOCUTORY APPEAL

On August 5, 2005, Respondent Wingra Redi-Mix filed a petition with the Wisconsin Employment Relations Commission seeking review of a July 21, 2005 decision by Examiner Stanley H. Michelstetter denying Respondent's per-hearing motion to dismiss.

We have considered the matter and conclude that we will not exercise our discretionary authority to review the Examiner's decision.

NOW, THEREFORE, it is

ORDERED

The interlocutory appeal is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 9th day of August, 2005.

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

MEMORANDUM ACCOMPANYING ORDER
DISMISSING INTERLOCUTORY APPEAL

As Respondent notes, the Examiner's decision is not a "final" disposition of the complaint and thus it is discretionary as to whether we should review the merits of the interlocutory appeal. G & H PRODUCTS, INC., DEC. NO. 17630-B (WERC, 1/82); JEFFERSON BOARD OF EDUCATION, DEC. NO. 13648-B (WERC, 1/76). While we have reviewed the merits of an appeal of an interlocutory Examiner order where the legal issue involved was of general significance – CLINTON SCHOOLS, DEC. NO. 20081-C (WERC, 7/84) involving the statutory authority of an Examiner to grant interlocutory relief – we have generally declined to exercise our discretionary jurisdiction. STATE OF WISCONSIN, DEC. NO. 30124-B (WERC, 7/01); VILLAGE OF KIMBERLY, DEC. NO. 28759-B (WERC, 12/96); WAUKESHA COUNTY, DEC. NO. 28726-B (WERC, 11/96); BROWN COUNTY, DEC. NO. 27553-C (WERC, 1/94); CITY OF BELOIT, DEC. NO. 25917-C (WERC, 10/89). We decline to do so here as well because we are satisfied that the legal issue is not one of general significance. Thus, we have dismissed the appeal.

If the Examiner issues a final order in this matter that is adverse to Respondent, Respondent has the right to file a petition for review raising the issue presented in this petition.

Dated at Madison, Wisconsin, this 9th day of August, 2005.

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

