

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**THE WISCONSIN STATE EMPLOYEES UNION,
AFSCME, COUNCIL 24, AFL-CIO, Complainant,**

vs.

STATE OF WISCONSIN, Respondent.

Case 706
No. 65994
PP(S)-373

Decision No. 31865-B

Appearances:

Kurt Kobelt, Lawton & Cates, Attorneys at Law, P.O. Box 2965, Madison, Wisconsin 53701-2965, appearing on behalf of the Wisconsin State Employees Union, AFSCME, Council 24, AFL-CIO.

David J. Vergeront, Chief Legal Counsel, Office of State Employment Relations, 101 East Wilson Street, 4th Floor, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of the State of Wisconsin.

ORDER DISMISSING PETITION FOR REVIEW

On October 16, 2006, Examiner Stuart D. Levitan issued an Order Denying Motion to Decline Jurisdiction in the above matter. On October 27, 2006, Respondent filed a Petition for Review with the Wisconsin Employment Relations Commission asking that the Commission review the Examiner's decision. The parties thereafter filed written argument-the last of which was received November 6, 2006. The Commission has considered the matter and concluded that it will not exercise its discretionary authority to review the Examiner's decision.

NOW, THEREFORE, it is

ORDERED

The Petition for Review is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of November, 2006.

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

STATE OF WISCONSIN – OFFICE OF STATE EMPLOYMENT RELATIONS

MEMORANDUM ACCOMPANYING ORDER
DISMISSING PETITION FOR REVIEW

Respondent's petition seeks Commission review of the Examiner's decision denying Respondent's motion to decline jurisdiction. The Examiner's decision is not a "final" disposition of the parties' dispute as to which a non-discretionary right to Commission review exists. ¹ As we decline to exercise our discretionary power to entertain the Respondent's Petition for Review of the Examiner's interlocutory decision, ² we have dismissed the petition. If the case is ultimately decided in a final manner which the Respondent believes to be incorrect, the Respondent is free to file a petition for review at that time raising whatever issues it deems appropriate.

Dated at Madison, Wisconsin, this 7th day of November, 2006.

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

¹ G & H PRODUCTS, INC., DEC. NO. 17630-B (WERC, 1/82); JEFFERSON BOARD OF EDUCATION, DEC. NO. 13648-B (WERC, 1/76).

² STATE OF WISCONSIN, DEC. NO. 11457-C, D (WERC, 3/73), *aff'd* STATE OF WISCONSIN V. WERC, 65 Wis. 2D 624 (1974); MILWAUKEE COUNTY, DEC. NO. 19545-D (WERC, 3/85), WISCONSIN DELLS SCHOOL DISTRICT, DEC. NO. 25997-A (WERC, 6/89); CITY OF BELOIT, DEC. NO. 25917 (WERC, 10/89).

