

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LEE RICHARD RADTKE, Complainant,

vs.

WEST SALEM SCHOOL DISTRICT, Respondent.

Case 29
No. 68488
MP-4467

Decision No. 32696-B

Appearances:

Lee Richard Radtke, P.O. Box 101, West Salem, Wisconsin 54669, appearing on his own behalf.

Leslie A. Sammon, Axley Brynson, LLP, P.O. Box 1767, Madison, Wisconsin 53701-1767, appearing on behalf of the West Salem School District.

ORDER DISMISSING INTERLOCUTORY APPEAL

By letter dated January 16, 2009, Examiner Raleigh Jones advised Complainant Lee Radtke that he was thereby “denying your request to videorecord the hearing” on Radtke’s complaint that the Respondent West Salem School District had committed certain prohibited practices within the meaning of the Municipal Employment Relations Act.

By letter dated April 2, 2009 and received April 7, 2009, Radtke appealed the Examiner’s January 16 ruling to the Commission. By letter dated and received April 16, 2009, the District opposed the appeal.

Until a final decision is issued as to the merits of Radtke’s complaint, neither he nor the Respondent have a right to have us review the merits of any procedural or evidentiary ruling that the Examiner has made or might make in the future. *G & H PRODUCTS, INC.*, DEC. NO. 17630-B (WERC, 1/82); *JEFFERSON BOARD OF EDUCATION*, DEC. NO. 13648-B (WERC, 1/76). Although there is no right to have us review the merits of an Examiner’s ruling, we nonetheless have discretion to do so. Unless the issue raised is one of general legal significance, we have generally declined to do so. *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 БЕЛОIT*, DEC. NO. 25917-C (WERC, 10/89).

No. 32696-B

Applicable law requires that a court reporter record and transcribe “the testimony and proceedings” in a complaint case hearing. See Secs. 111.07(3) and 111.70(4)(a), Stats. How an examiner has exercised his or her discretion as to whether to allow a litigant to independently audio or video record the complaint proceedings is not a matter of general legal significance and we see no reason to disturb the choice made by the Examiner.¹ Thus, we have dismissed Radtke’s appeal.

Given under our hands and seal at the City of Madison, Wisconsin, this 29th day of April, 2009.

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 We note that the Examiner rejected Radtke’s request to video record the hearing and that Radtke asks on appeal to be allowed to audio record the hearing. To the extent the Examiner has not yet addressed the audio recording of the hearing, he may do so.