STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JAMES V. ENDRES, Complainant,

v.

**TEAMSTERS UNION LOCAL 695, and
CITY OF MADISON – MADISON METRO,** Respondents.

Case 266
No. 69415
MP-4560

Decision No. 33021-C

Appearances:

Ms. Jill M. Hartley, Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, 1555 North Rivercenter Drive, Suite 202, P. O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of Teamsters Local Union 695.

Mr. Roger Allen, Assistant City Attorney, City of Madison, 210 Martin Luther King, Jr. Boulevard, Room 401, Madison, Wisconsin 53710, appearing on behalf of City of Madison – Madison Metro.

Mr. Michael Deiters, Labor Relations Manager, City of Madison, 210 Martin Luther King, Jr. Boulevard, Room 401, Madison, Wisconsin 53710, appearing on behalf of City of Madison – Madison Metro.

Mr. James V. Endres, 5794 Ledgemont Court, Madison, Wisconsin 53711, appearing *pro se*.

ORDER DISMISSING ANY AND ALL CLAIMS BY COMPLAINANT ENDRES AGAINST RESPONDENT TEAMSTERS UNION LOCAL 695

On December 21, 2009, the Commission received from James V. Endres an unsigned Complaint against Respondent City of Madison (the City) and Respondent Teamsters Union

No. 33021-C

Local 695 (the Union). On February 25, 2010, the Commission received from Mr. Endres correspondence acknowledging that he had forgotten to sign his Complaint and providing his signature.

On February 5, 2010, the City filed a "Motion to Dismiss or in the Alternative Motion to Make More Definite and Certain" and a brief supporting those motions. On February 8, 2010, the Union filed a "Motion for More Definite Statement".

A briefing schedule was set, pursuant to which Complainant timely filed a response to the Union's and City's motions on February 25, 2010. The City timely filed a reply on March 10, 2010.

On April 15, 2010, the Examiner issued an Order denying as moot Teamsters Union Local 695's Motion for More Definite Statement, denying the City of Madison's Motion to Dismiss, and granting The City of Madison's Motion to Make More Definite and Certain. *See* Decision No. 33021-A. The Order also directed Complainant Endres to file a statement with the Commission within 15 days of the date of the Order that identified the language in the collective bargaining agreement(s) in force and effect from December 30, 2008, through May 1, 2009 (the period during which Complainant alleges the City relieved Complainant of his duties) that the Complainant believes Respondent City of Madison violated.

Complainant timely complied with the Examiner's Order by identifying the contract language that he believed the City violated in a letter dated April 25, 2010, and received by the Commission on April 28, 2010. Mr. Endres also attached to this letter a copy of the contractual provisions in the collective bargaining agreement (CBA)[1] that set forth the grievance procedure, entitled, "Article 8 – Grievance and Arbitration".

On May 6, 2010, the Examiner issued a briefing schedule regarding Complainant's submissions, pursuant to which the City timely filed a response on May 19, 2010, and Complainant timely filed a reply on June 4, 2010. On August 6, 2010, the Examiner issued an Order granting the City of Madison's Motion to Dismiss. *See* Decision No. 33021-B.

On Tuesday, August 31, 2010, the Examiner sent an e-mail to Mr. Endres and others, which stated in relevant part:

> On August 6, 2010, Decision No. 33021-B was issued in the above-captioned matter. That decision included an order granting Respondent City of Madison's Motion to Dismiss Complainant Endres' claims against the City. Complainant has not appealed that decision.

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[1] The CBA at issue is the "Labor Agreement Between the City of Madison Department of Transportation Transit Division and Teamsters Union Local No. 695 affiliated with the International Brotherhood of Teamsters", for the period covering January 1, 2008 – December 31, 2009.

Still pending, however, is Complainant's claim that the Union violated its duty of fair representation. I would like Complainant to advise by the end of the week whether he intends to pursue or withdraw this claim.

. . .

Because Complainant did not respond to this e-mail, the Examiner sent a follow-up e-mail to Mr. Endres using the read/receipt option on Wednesday, September 29, 2010. That e-mail stated in pertinent part:

On August 31, 2010, I sent an e-mail to the parties in the above-captioned matter (see below). My e-mail noted that you had not appealed the Order in Decision No. 33021-B, which granted Respondent City of Madison's Motion to Dismiss your claims against the City. My e-mail also instructed you to advise by the end of the week whether you intended to pursue or withdraw your pending claim that the Union violated its duty of fair representation. To date, I have not heard from you.

Accordingly, please respond by the end of the business day (4:30 p.m.) on Friday, October 8, 2010, regarding whether you intend to pursue or withdraw your pending claim that the Union violated its duty of fair representation. If I do not receive a response by that date and time, I will assume that you are abandoning this claim and will issue an Order dismissing it. Please also confirm receipt of this e-mail.

. . .

On October 4, 2010, the Examiner received an automated reply to this e-mail from Mr. Endres' e-mail address, stating, "Your message was read on Monday, October 04, 2010 10:28:03 PM (GMT-06:00) Central Time (US & Canada)."

As of the date of this Order, the Examiner has not received any response from Mr. Endres to the Examiner's e-mail, dated September 29, 2010, indicating that Mr. Endres wishes to pursue his pending claim that the Union violated its duty of fair representation.

WHEREFORE, the Examiner makes and issues the following

ORDER

Any and all claims by Complainant Endres against Respondent Teamsters Union Local 695 in the above-captioned matter are hereby dismissed with prejudice.

Dated at Madison, Wisconsin, this 21st day of October, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

John C. Carlson, Jr. /s/
John C. Carlson, Jr., Examiner