

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WINNEBAGO COUNTY COURTHOUSE EMPLOYEES ASSOCIATION
Involving Certain Employees of
WINNEBAGO COUNTY

Case 449
No. 73165
ME-5441

DECISION NO. 35005

Appearances:

Richard T. Elrod, Herrling Clark Law Firm, 800 North Lynndale Drive, Appleton, Wisconsin, 54914, appearing on behalf of Winnebago County Courthouse Employees Association.

Michael Collard, Director of Human Resources, 112 Otter Street, Oshkosh, Wisconsin, 54903, appearing on behalf of Winnebago County.

ORDER DISMISSING PETITION

On January 30, 2014, the Winnebago County Courthouse Employees Association filed a petition with the Wisconsin Employment Relations Commission asking that the Commission conduct an election to determine whether the Association could continue to serve as the collective bargaining representative of certain employees of Winnebago County. The filing fee applicable to the petition was not received until February 3, 2014. The Commission advised the parties that the filing fee had not been received by the January 30 deadline established by Wis. Admin. Code § ERC 71 and requested that any argument be filed on or before February 10, 2014. No argument was received.

On February 20, 2014, the Commission advised the parties that it had voted to dismiss the petition as untimely filed. This Order is formal confirmation of that vote.

NOW THEREFORE, it is

ORDERED

The petition is dismissed.

Dated at Madison, Wisconsin, this 30th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

MEMORANDUM ACCOMPANYING ORDER DISMISSING PETITION

Section 111.70(4)(d)3.b., Stats., requires that the Commission annually conduct an election to determine whether at least fifty-one percent (51%) of employees in a collective bargaining unit want to continue to be represented by their current collective bargaining representative. For bargaining units consisting of general municipal employees (including County employees), the election is to be conducted no later than May 1 of each year.

To provide a process by which such elections will be conducted, the Commission promulgated Wis. Admin. Code § ERC 71. Wis. Admin. Code § ERC 71.03(2) provided that a petition is not filed until the applicable filing fee is also received. Wis. Admin. Code §§ ERC 71.01 and 71.03(7) required that a petition requesting the conduct of the annual fifty-one percent (51%) election be filed on or before January 30. Wis. Admin. Code § ERC 71.03(7) further specified that if a petition was not timely filed the collective bargaining representative lost its status as the collective bargaining representative as of January 30 or as of the expiration of any existing collective bargaining agreement, whichever was later. Lastly, pursuant to the statutory directive in § 111.70(4)(d)3.b., Stats., Wis. Admin. Code § ERC 71.03(7) stated that the employees could not be included in a substantially similar bargaining unit for at least one (1) year from the date representative status was lost.

The Association's petition was not filed on or before January 30, 2014, because the filing fee was not received until February 3, 2014. Therefore, the petition is dismissed and the consequences specified by Wis. Admin. Code § ERC 71.03(7) are applicable.

Dated at Madison, Wisconsin, this 30th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner