

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ROBERT LOUIS SLAMKA, Complainant,

vs.

GENERAL HEATING AND AIR CONDITIONING, INC., Respondent.

Case ID: 560.0000
Case Type: COMP_CE

DECISION NO. 37777-B

Appearances:

Walter Stern III, Attorney, 920 - 85th Street #123, Kenosha, Wisconsin, appearing on behalf of Robert Louis Slamka.

Ryan N. Parsons, Foley & Lardner LLP, 777 East Wisconsin Avenue, Milwaukee, Wisconsin, appearing on behalf of General Heating and Air Conditioning, Inc.

DECISION ON PETITION FOR REVIEW

On July 24, 2018, Robert L. Slamka filed a complaint with the Wisconsin Employment Relations Commission alleging that General Heating and Air Conditioning, Inc. had committed various unfair labor practices within the meaning of the Wisconsin Employment Peace Act. On December 3, 2018, General Heating and Air Conditioning, Inc. filed an answer to the complaint. A hearing was held in Madison, Wisconsin, on December 18, 2018, before Commission Examiner Peter G. Davis. Parties thereafter filed written argument, the last of which was received on February 21, 2019.

On March 4, 2019, Examiner Davis dismissed the complaint for lack of jurisdiction. Slamka submitted a petition for review to the Commission on March 18, 2019. The parties then filed written argument, the last of which was received April 3, 2019.

The arguments of Slamka are not persuasive for purposes of reversing Examiner Davis' decision. The only conduct that Congress allows a State to regulate is the content of a contract between a union and private sector employer regarding union membership.

... state power, recognized by §14(b), begins only with the actual negotiation and execution of the type of agreement described by §14(b). Absent such an agreement, conduct arguably an unfair labor

practice would be a matter for the National Labor Relations Board under Garmon.” *Retail Clerks International Assoc. v. Schermerhorn*, 375 U.S. 96 at 105 (1963).

As such, Examiner Davis’ reasoning is sound, and the Wisconsin Employment Relations Commission is without jurisdiction to hear this matter.

Signed at the City of Madison, Wisconsin, this 11th day of April, 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman