

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ROBERT LOUIS SLAMKA, Complainant,

vs.

SHEET METAL WORKERS UNION LOCAL NO. 18, Respondent.

Case ID: 563.0000
Case Type: COMP_CE

DECISION NO. 37778-B

Appearances:

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

Sara J. Geenen, Attorney, The Previant Law Firm, S.C., 310 W. Wisconsin Avenue, Suite 100 MW, Milwaukee, Wisconsin, appearing on behalf of Sheet Metal Workers Local Union No. 18.

DECISION ON PETITION FOR REVIEW

On August 20, 2018, Robert L. Slamka filed a complaint with the Wisconsin Employment Relations Commission alleging that the Sheet Metal Workers Union Local No. 18 (SMART) had committed various unfair labor practices within the meaning of the Wisconsin Employment Peace Act. SMART filed a motion to dismiss on September 21, 2018. Slamka responded on October 20, 2018.

Examiner Peter G. Davis issued a ruling on November 6, 2018, granting the motion to dismiss on grounds of preemption by the National Labor Relations Board (NLRB). On November 26, 2018, Slamka petitioned for review. SMART responded on December 31, 2018. Additional written argument was provided by Slamka on February 21, 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, the 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 4th day of April, 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman