

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

YASIN MAHDI, COMPLAINANT

vs.

CNH INDUSTRIAL, RESPONDENT

Case ID: 639.0000

Case Type: COMP_CE

DECISION NO. 39779-A

Appearances:

Yasin Mahdi, 1708 Wisconsin Avenue, Racine, Wisconsin, appearing on his own behalf.

Becky Kalas, Attorney, Ford Harrison LLP, 180 N. Stetson Avenue, Suite 1660, Chicago, Illinois, appearing on behalf CNH Industrial.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On August 17, 2022, Yasin Mahdi filed a complaint with the Wisconsin Employment Relations Commission alleging that CNH Industrial had committed an unfair labor practice within the meaning of Wis. Stat. § 111.06(1)(c) of the Wisconsin Employment Peace Act.

On September 22, 2022, CNH filed a motion to dismiss the complaint alleging among other matters that only the National Labor Relations Board has jurisdiction over the complaint allegation.

On September 28, 2022, Mahdi amended his complaint to add an alleged violation of Wis. Stat. 111.06(1)(d). On October 20, CNH filed an amended motion to dismiss.

Mahdi did not file a response to the motion by or after a November 21, 2022 deadline.

Having considered the matter, I am persuaded that the Commission does not have jurisdiction over the complaint.

NOW, THEREFORE, it is:

ORDERED

The motion to dismiss is granted and the complaint is dismissed.

Issued at the City of Madison, Wisconsin, this 30th day of December, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Examiner

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

It is well settled that where a complaint filed with the Wisconsin Employment Relations Commission contains allegations as to which the National Labor Relations Board (NLRB) could exercise jurisdiction, the Commission cannot assert any jurisdiction it might otherwise have. *See Algoma Plywood v. WERB*, 336 U.S. 301 (1949); *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1959); *Local 248 v. WERB*, 11 Wis.2d 277 (1960). Here, the NLRB could assert jurisdiction over the Mahdi complaint allegations that CNH Industrial has violated a duty to bargain and is discouraging union membership by the content of communications CNH has had published in local media and has mailed to CNH employees. Therefore, the complaint is dismissed.¹

Issued at the City of Madison, Wisconsin, this 30th day of December, 2022.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Examiner

¹ As this matter was being processed, Mahdi asked that CNH communicate with him only by mail as opposed to email. CNH complied with his request.