

James R. Meier
Chairperson
A. Henry Hempe
Commissioner



Mailing Address:
14 West Mifflin Street
P. O. Box 7870
Madison, WI 53707-7870
Telephone: (608) 266-1381
Fax: (608) 266-6930

**State of Wisconsin
Wisconsin Employment Relations Commission**

February 20, 1997

Mr. Frederick C. Miner
Previant, Goldberg, Uelmen,
Gratz, Miller, Brueggeman, S.C.
Attorneys at Law
1555 North Rivercenter Drive, Suite 202
P. O. Box 12993
Milwaukee, WI 53212

Mr. Steve McCloskey, Representative
J. W. Peters & Sons, Inc.
500 West Market Street
Burlington, WI 53105

Re: J. W. Peters & Sons, Inc.
Case 12 No. 54617 A-5535
(Rau Discharge Grievance)

Gentlemen:

This letter is written to confirm the "bench" decision rendered by the undersigned in the above-entitled matter on February 7, 1997, in the AmericInn, Burlington, Wisconsin.

Pursuant to a request by Teamsters Local Union No. 43, herein the Union, and the subsequent concurrence by J. W. Peters & Sons, Inc., herein the Employer, the undersigned was appointed Arbitrator by the Wisconsin Employment Relations Commission pursuant to the procedure contained in the grievance-arbitration provisions of the parties' collective bargaining agreement, to hear and decide a dispute as specified below.

Hearing in the matter was held on February 7, 1997, as noted above. At the hearing the parties stipulated, and the undersigned agreed to provide, a "bench" award on the procedural issue raised by the Employer, which is herein confirmed. The parties agreed to waive written analysis and rationale for the Arbitrator's "bench" decision.

The Employer framed the following procedural issue:

Mr. Frederick C. Miner
Mr. Steve McCloskey
Page 2
February 20, 1997

Has the Union followed the grievance procedure properly?

The Union made a number of arguments at hearing in support of its contention that it followed the grievance procedure properly while the Employer took the opposite position.

Based on the record evidence and the parties' arguments, the undersigned issued a "bench" decision and found that the answer to the issue as framed by the Employer was NO, the Union did not follow the grievance procedure properly. Having ruled in favor of the Employer on its procedural objection, the Arbitrator ruled that he had no jurisdiction to hear the substantive dispute. The undersigned therefore denied the grievance and dismissed the matter.

By terms of this letter I am confirming same and closing the file on the above case.

Very truly yours,

Dennis P. McGilligan
Arbitrator

DPM/mb
0220DM12.A

cc - Mr. Merlin A. Hanson, President, Teamsters, Chauffeurs & Helpers Local No. 43
Mr. Richard K. Lewis, Human Resource Manager, J. W. Peters & Sons, Inc.

Mr. Frederick C. Miner
Previant, Goldberg, Uelmen,
Gratz, Miller, Brueggeman, S.C.
Attorneys at Law
1555 North Rivercenter Drive, Suite 202
P. O. Box 12993
Milwaukee, WI 53212

**Mr. Steve McCloskey, Representative
J. W. Peters & Sons, Inc.
500 West Market Street
Burlington, WI 53105**

Mr. Merlin A. Hanson, President
Teamsters, Chauffeurs & Helpers
Local No. 43
1624 Yout Street
Racine, WI 53404-2160

Mr. Richard K. Lewis
Human Resource Manager
J. W. Peters & Sons, Inc.
Administrative Office
500 West Market Street
Burlington, WI 53105