

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CHRIS SENKBEIL, Complainant,

vs.

WISCONSIN LAW ENFORCEMENT ASSOCIATION and
STATE OF WISCONSIN DEPARTMENT OF TRANSPORTATION,
DIVISION OF STATE PATROL, Respondents.

Case ID: 718.0000
Case Type: COMP_PPS

DECISION NO. 41512-A

Appearances:

William R. Rettko, Attorney, Rettko Law Offices S.C., 15460 W. Capitol Drive, Ste. 150, Brookfield, Wisconsin, appearing on behalf of Chris Senkbeil.

Chris MacGillis and Austin Felber, Attorneys, MacGillis Law Group LLC, 12700 W. Bluemound Road, Suite 200, Elm Grove, Wisconsin, appearing on behalf of the Wisconsin Law Enforcement Association.

William Ramsey, Deputy Legal Counsel, Wisconsin Department of Administration, 101 E. Wilson St., 10th Floor, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Transportation, Division of State Patrol.

DECISION AND ORDER GRANTING MOTION TO DISMISS

On May 15, 2026, Chris Senkbeil filed a complaint with the Wisconsin Employment Relations Commission alleging that the Wisconsin Law Enforcement Association (hereinafter “WLEA”) committed unfair labor practices within the meaning of § 111.84 of the State Employment Labor Relations Act. On May 19, 2026, Senkbeil filed a supplement to his complaint. On May 20, 2026, Senkbeil filed a response to a Department of Administration correspondence to correct a statutory citation error in his complaint.

On June 5, 2026, WLEA filed an answer and motion to dismiss the complaint, alleging that Senkbeil failed to state a claim upon which relief can be granted.

On June 8, 2026, the Commission appointed Anfin J. Wise as Examiner in the matter.

On June 12, 2026, the Wisconsin Department of Transportation, Division of State Patrol (hereinafter “DSP”) filed a motion to dismiss it as a respondent to the extent it is considered a party by the Commission, alleging that Senkbeil failed to state a claim upon which relief may be granted against the State of Wisconsin.

On June 18, 2026, Senkbeil filed a response to DSP’s motion to dismiss the State of Wisconsin as a respondent.

On June 26, 2026, Senkbeil filed an amended complaint adding DSP as a respondent, alleging that WLEA and DSP committed unfair labor practices within the meaning of § 111.84 of the State Employment Labor Relations Act.

Having considered the matter, I make and issue the following:

ORDER

The motions by WLEA and DSP to dismiss the complaint are granted.

Issued at the City of Madison, Wisconsin, this 14th day of September 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by: Anfin J. Wise

Anfin J. Wise, Examiner

MEMORANDUM ACCOMPANYING DECISION AND ORDER
GRANTING MOTION TO DISMISS

Senkbeil alleges that DSP violated the collective bargaining agreement by providing members with fewer personal and legal holiday hours than guaranteed in the contract. He also alleges that WLEA committed unfair labor practices in violation of Wis. Stats. §§ 111.84(2)(a), 111.84(2)(b), and 111.84(2)(c) by failing to process his grievance regarding this discrepancy in entitlements. Even accepting all factual allegations as true, the Complaint fails to state a claim and must be dismissed.

1. Senkbeil fails to establish that WLEA coerced or intimidated employees in the enjoyment of their rights.

Wis. Stat. § 111.84(2)(a) states that it is an unfair labor practice for a union “to coerce or intimidate an employee in the enjoyment of the employee’s legal rights, including those guaranteed under s. 111.82.”

Senkbeil alleges that WLEA coerced employees in the exercise of their rights by deliberately concealing a known contractual violation from members and suppressing information members needed to pursue enforcing it. However, Senkbeil’s own facts state the opposite. He claims that Chief Steward and Bargaining Team Member Ethan Rehberg and WLEA Representative James Tobin publicly spoke about the contractual violation at official union meetings and made it clear that WLEA would use the violation as leverage in future contract bargaining to negotiate additional time off benefits. (Amended Compl. at 3.) Both times, these statements were made in the presence of multiple union members. *Id.* These facts demonstrate that WLEA informed members of the contractual violation and openly acknowledged their strategy to remedy the violation in bargaining.

Senkbeil provides no other facts in support of a finding that WLEA coerced or intimidated employees in any way. Thus, the first claim fails.

2. Senkbeil fails to establish that WLEA breached its duty of fair representation.

Wis. Stat. § 111.84(2)(b) states that it is an unfair labor practice for a union “to coerce, intimidate or induce any officer or agent of the employer to interfere with any of the employer’s employees in the enjoyment of their legal rights including those guaranteed under s. 111.82 or to engage in any practice with regard to its employees which would constitute an unfair labor practice if undertaken by the officer or agent on the officer’s or agent’s own initiative.”

Senkbeil claims that WLEA violated § 111.84(2)(b) by breaching its duty of fair representation. However, the Commission assumes that Senkbeil meant to make this claim under § 111.84(2)(a) instead of (b) because breach of duty of fair representation complaints are routinely filed under § 111.84(2)(a), breaching this duty is an unfair labor practice under § 111.84(2)(a), and nowhere in his complaint does Senkbeil allege that WLEA coerced, intimidated, or induced anyone in the DSP into doing anything.

Even assuming that Senkbeil meant to make his duty of fair representation complaint under § 111.84(2)(a), the claim does not survive. The standard for determining a breach of the duty of fair representation is whether the union's conduct toward bargaining unit employees is arbitrary, discriminatory, or in bad faith. *Mahnke v. Wis. Emp't Relations Com.*, 66 Wis. 2d 524 (1975). Unions have considerable discretion in deciding whether to pursue a grievance. *Id.* In deciding whether to pursue a grievance, the union must consider the merits of the grievance, taking into account at least the monetary value of the claim, the effect of the breach, and the likelihood of success in arbitration. *Id.* The absence of evidence that these factors were taken into account does not show a breach of the duty of fair representation. *Bardon Rubber Products Company and UAW Local 627*, Dec. No. 19743-A (WERC, 6/83).

Senkbeil fails to plead any facts that would support a finding that WLEA acted in an arbitrary, discriminatory, or bad faith manner in making its decision not to pursue his grievance. A union acts arbitrarily if its conduct is so egregious or unreasonable, so far short of minimum standards of fairness, and so unrelated to legitimate union interests as to be irrational or widely unreasonable. *SEIU Local No. 150 v. Wis. Emp't Rels. Comm'n*, 2010 WI App 126, ¶¶ 21-22, 329 Wis. 2d 447, 791 N.W. 2d 662. None of WLEA's alleged conduct meets this high bar. Whether a union's actions were discriminatory in bad faith requires proof that it acted or failed to act due to an improper motive. *Id.* Nothing in Senkbeil's complaint suggests that WLEA was motivated by anything other than the interests of its members.

In fact, Senkbeil's complaint supports the conclusion that WLEA considered at least the merits of the grievance and the effect the breach would have on contract negotiations. Senkbeil claims that WLEA decided not to grieve the contractual violation but rather to wait until negotiations to bring it to DSP's attention. (Amended Compl. at 3.) This demonstrates that WLEA determined that Senkbeil's complaint did have merit, but allowing DSP to continue to violate the contract would put WLEA in a more advantageous position come time to negotiate the next contract. The decision not to pursue Senkbeil's grievance was strategic—not arbitrary, discriminatory, or bad faith.

It is also worth noting that unions must consider *at least* the monetary value of the claim, the effect of the breach, and the likelihood of success in arbitration. It is a common practice for unions to withhold from filing grievances or to drop grievances for leverage in future contract negotiations. There is no rule forbidding unions from considering other factors as long as they are not arbitrary, discriminatory, or in bad faith.

3. Senkbeil fails to establish that the WLEA refused to bargain collectively.

Wis. Stat. § 111.84(2)(c) states that it is an unfair labor practice for a union “to refuse to bargain collectively on matters set forth in s. 111.91 (1) or (3), whichever is appropriate, with the duly authorized officer or agent of the employer which is the recognized or certified exclusive collective bargaining representative of employees specified in s. 111.81 (7) (a) in an appropriate collective bargaining unit or with the certified exclusive collective bargaining representative of employees specified in s. 111.81 (7) (ar) to (f) in an appropriate collective bargaining unit. Such refusal to bargain shall include, but not be limited to, the refusal to execute a collective bargaining agreement previously orally agreed upon.”

Senkbeil alleges that WLEA violated § 111.84(2)(c) because it failed to bargain in good faith by not grieving DSP's contractual violation and instead using it as leverage for negotiations. (Am. Compl. at 3-4.) However, the fact that WLEA planned on using it as a bargaining tool shows that it intended to bargain collectively in the future, and that it believed that using the violation as leverage in negotiations would have a greater benefit to members than grieving it. Further, § 111.84(2)(c) says nothing about bargaining in good faith; only that the union must bargain collectively. Whether leveraging a contractual violation is considered a good faith bargaining technique is not relevant to § 111.84(2)(c).

4. The Commission may not hear the contractual violation complaint against DSP because Senkbeil fails to establish that WLEA breached its duty of fair representation.

Before the Commission may review the merits of an employee's complaint alleging that their employer violated the collective bargaining agreement, the employee must establish that he attempted to exhaust the union's grievance procedure and that such attempt was frustrated by the union's breach of its duty of fair representation. *Peters v. Badger Lumber Co., et al.*, Dec. Nos. 12451-A, 12451-B (WERC, 5/74); *Kraemer v. Oscar Mayer Co. Inc., et al.*, Dec. Nos. 11591-B, 11591-C (WERC 10/74); *Mangerson v. Printing and Packaging Papers Division and St. Regis Paper Co.*, Dec. Nos. 12880-C, 12880-D (WERC 12/74).

Here, Senkbeil fails to establish that the WLEA breached its duty of fair representation. As a result, the Commission may not review the merits of Senkbeil's claim that DSP violated its collective bargaining agreement with the WLEA. Accordingly, Senkbeil's claim against DSP fails.

Accordingly, the Complaint fails to state a claim for which relief can be granted, and thus the complaint is dismissed.

Issued at the City of Madison, Wisconsin, this 14th day of September 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by: Anfin J. Wise

Anfin J. Wise, Examiner