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Marinette County Professional Employees Union, Local 1752-A, AFSCME, AFL-CIO v. Marinette County

Court of Appeals of Wisconsin - February 11, 2014 - Slip Copy - 2014 WL 519215

In 2009, Marinette County entered into a collective bargaining agreement with the Marinette County Professional Employees Local 1752-A, AFSCME, AFL-CIO union. Article 31.01 of the agreement stated: "This agreement shall be effective January 1, 2009 through December 31, 2011[sic] shall continue in full force and effect from year to year unless either party gives written notice to the other requesting changes prior to June 1, 2011."

After a budget repair bill was introduced in February 2011, the Union approached the County about negotiating a new agreement. The County responded that it was not interested, and no negotiations occurred. 2011 Wis. Act 10 became law on June 29, 2011, thereby extinguishing most collective bargaining privileges for general municipal employees, commencing "on the day [an existing] agreement expires or is terminated, extended, modified, or renewed, whichever occurs first." Act 10, §§ 245, 9332.

In July 2011, the Union claimed the parties' existing agreement had automatically extended for an additional year because neither party had given notice before June 1. The County disputed this assertion, and the Union filed a grievance seeking a one-year extension. The County denied the grievance and the matter proceeded to arbitration.

Following a hearing and submission of briefs, the arbitrator ruled in favor of the Union, explaining: "The parties' failure to act by the June 1 date extended the labor agreement and since this occurred in advance of the Act 10 effective date, I conclude that the 2009-11 collective bargaining agreement was automatically extended through December 31, 2012." The circuit court subsequently granted the Union's motion to confirm the arbitration award. The County appealed.

The Court of Appeals affirmed, finding:

- The arbitrator had not exceeded its powers by not applying WIS. STAT. § 111.70(3)(a)4. (2009-10), which limited collective bargaining agreements to a maximum of three years, as the county waived this argument by not presenting it to the arbitrator;
- The arbitrator had not exceeded its powers when it found that the one-year automatic extension of the arbitration agreement did not violate 2011 Wis. Act 10, as the extension occurred automatically and prior to the effective date of the Act.

"We find it patently absurd to argue an arbitrator's award could be overturned for failing to consider arguments or authority that were never presented to the arbitrator. Not surprisingly, the County cites no authority for this proposition."