MISSOURI COURT OF APPEALS
WESTERN DISTRICT

PROFESSIONAL FIRE FIGHTERS OF EASTERN MISSOURI, INTERNATIONAL ASSOCIATION OF FIRE FIRGHTERS, LOCAL 2665, APPELLANT,

v.

CITY OF RICHMOND HEIGHTS, RESPONDENT.

DOCKET NUMBER WD86174

DATE: NOVEMBER 28, 2023

Appeal From:

The Circuit Court of Cole County, Missouri
The Honorable S. Cotton Walker, Judge

Appellate Judges:

Division One: Edward R. Ardini, Jr., Presiding Judge, Anthony Rex Gabbert, Judge, and Janet Sutton, Judge

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Attorneys:

Megan Hoffman, St. Louis, MO, for Appellant

Brian C. Hey, St. Louis, MO, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

PROFESSIONAL FIRE FIGHTERS OF EASTERN MISSOURI, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2665, APPELLANT,

v.

CITY OF RICHMOND HEIGHTS, RESPONDENT.

WD86174 Cole County

Before Division One Judges: Edward R. Ardini, Jr., Presiding Judge, Anthony Rex Gabbert, Judge, and Janet Sutton, Judge

The Professional Fire Fighters of Eastern Missouri, International Association of Fire Fighters, Local 2665 (the "Local") is the exclusive bargaining representative of all full-time employees of the City of Richmond Heights's fire department, excluding captains, battalion chiefs, and fire chief. The Local filed a Petition for Certification of Representation with the State Board of Mediation, seeking to create a separate bargaining unit consisting of fire captains employed by the City and to be certified as that unit's bargaining representative. The City filed a motion to dismiss the Local's petition. The Board granted the City's motion and dismissed the petition pursuant to the "contract bar rule."

The Local sought judicial review of the Board's dismissal in the Circuit Court of Cole County. After conducting contested-case review, the circuit court affirmed the decision of the Board. The Local appealed.

REVERSED AND REMANDED.

Division One holds:

(1) The circuit court did not err in reviewing the Board's decision as a contested case. The dismissal of a contested case before the hearing transpires does not convert the matter to a non-contested case.

(2) The circuit court erred in affirming the decision of the Board. The Board's decision dismissing the Local's petition was arbitrary and unreasonable. The contract bar rule should not have applied to the Local's Petition for Certification of Representation.

Opinion by: Edward R. Ardini, Jr., Judge November 28, 2023

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