

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MADISON INDEPENDENT WORKERS  
UNION,

Complainant,

vs.

PACO'S RESTAURANT,

Respondent.

Case II  
No. 17164 Ce-1515  
Decision No. 12165-A

ORDER DENYING DEMAND FOR BILL OF  
PARTICULARS AND PREHEARING MOTIONS

A complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission by Madison Independent Workers Union on September 18, 1973, wherein it alleged that Paco's Restaurant had committed unfair labor practices within the meaning of the Wisconsin Employment Peace Act; and the Commission having appointed the undersigned as Examiner to make and issue Findings of Fact, Conclusions of Law and Order in this matter and the Examiner on September 25, 1973 having scheduled the matter for hearing; and pursuant thereto hearing having been held on October 19, 1973 at which time it was adjourned until November 15, 1973 pursuant to Respondent's request; and thereafter Respondent on November 8, 1973 having filed a Demand for Bill of Particulars and Prehearing Motions; and the Examiner having considered said demand and motions;

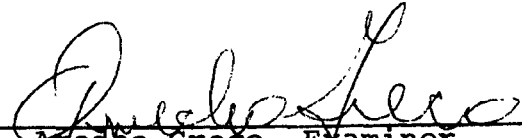
NOW, THEREFORE, it is

ORDERED

That the Demand for Bill of Particulars and Prehearing Motions in the above entitled matter be, and the same hereby are, denied.

Dated at Madison, Wisconsin this 9th day of November, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BY   
Amedeo Greco, Examiner

MEMORANDUM ACCOMPANYING ORDER DENYING  
DEMAND FOR BILL OF PARTICULARS  
AND PREHEARING MOTIONS

In its Demand for Bill of Particulars, Respondent asks that 1) "complainant specify which particular provisions of Chapter III of the Wisconsin Statutes it alleges that respondent has violated;" and 2) "the complainant specify who allegedly terminated Ms. Chris Collete from her position at Paco's Restaurant." In fact, Complainant has already supplied this information at the October 19, 1973 hearing wherein it amended its complaint to allege that George Radel unlawfully terminated Ms. Collete in violation of Section 111.06 of the Wisconsin Statutes. Accordingly, as Complainant has already supplied the requested information, this portion of the Demand for Bill of Particulars is hereby denied as there is no reason why said information should again be supplied.

Respondent also requests in its Demand for Bill of Particulars, that 1) "the complainant specify the information which leads it to conclude that any termination which may have occurred was in any way related to past activities of Ms. Collete, 2) "the complainant specify the manner in which Mr. Bill Louthier was involved in any way with Ms. Collete's employment or termination;" and 3) "the complainant specify the grounds for the alleged knowledge of Jacqueline Young who verified the Complaint in this matter." These demands for greater specificity all go to questions of the Complainant's evidence. On this point, Wisconsin Administrative Code, Section ERB 2.02 (c) provides only that the complaint include a "clear and concise statement of the facts constituting the alleged unfair labor practice or practices, including the time and place of occurrence of particular acts and the names of persons involved." Here, as Respondent seeks the production of evidence not required under ERB 2.02 (c), supra, Respondent's aforementioned requests for specificity are hereby denied.

Turning to Respondent's prehearing motions, Respondent first moves that Complainant respond to its demand for Bill of Particulars. For the reasons noted above this motion is hereby denied.

Respondent also moves to take depositions from Ms. Collete and Ms. Young, the Complainant. However, Respondent has not offered the "good cause" required under ERB 2.10 as to why such depositions are needed. Accordingly, and as Respondent can question these individuals at the hearing, this motion is hereby denied.

Respondent also moves that it be accorded a delay in presenting its defense at the hearing, and that the November 15, 1973 hearing be continued or adjourned. These requests are hereby denied as 1) Respondent, pursuant to its request, has already been granted approximately a one month adjournment of the hearing, and 2) Respondent at the present time has offered no reason as to why it cannot present its defense at the November 15, 1973 hearing.

In light of the foregoing discussion, Respondent's Demand for a Bill of Particulars and its Prehearing Motions are denied.

Dated at Madison, Wisconsin this 9th day of November, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Amedeo Greco, Examiner