

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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NATALIE FOX	:	
	:	
Complainant,	:	Case I
	:	No. 18134 Ce-1551
vs.	:	Decision No. 12884-A
	:	
MILWAUKEE BLOOD CENTER, INC.	:	
	:	
Respondent.	:	
	:	

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ORDER DENYING MOTION TO STRIKE PARTS OF THE COMPLAINT

A complaint of unfair labor practices having been filed with the Wisconsin Employment Relations Commission on July 15, 1974 by Natalie Fox, herein referred to as Complainant, wherein it alleged that Milwaukee Blood Center, Inc., herein referred to as Respondent, had committed unfair labor practices within the meaning of the Wisconsin Employment Peace Act, and the Commission having appointed Stanley H. Michelstetter II, a member of the Commission's staff, to act as Examiner in the matter; and the Examiner having scheduled the matter for hearing; and thereafter but prior to such hearing, Respondent on August 22, 1974, having filed a Motion to Strike Parts of the Complaint; and the Examiner having considered said Motion;

NOW, THEREFORE, it is

ORDERED

That Respondent's Motion to Strike Part of the Complaint be, and the same hereby is, denied.

Dated at Milwaukee, Wisconsin, this 23rd day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stanley H. Michelstetter II  
Stanley H. Michelstetter II, Examiner

MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION TO STRIKE PARTS OF THE COMPLAINT

Respondent moved to strike the third, fourth and fifth paragraphs of the instant complaint as follows: that such are not a clear and concise statement of facts and, therefore, do not comply with Wis. Admin. Code Sec. ERB 2.02(c) [paragraphs three and four]; that certain allegations of such paragraphs are unintelligible [paragraphs three and four]; and that such paragraphs are irrelevant to the issues raised under Wis. Rev. Stat. (1971) Section 111.06 [paragraphs four and five].

Applying such by analogy, Wis. Rev. Stat. (1971) Section 263.43 <sup>1/</sup> provides that irrelevant, redundant or scandalous matter may be stricken. No provision appears to strike out matter that does not comply with rules for pleading. Where, as here, striking out matter which fails to comply with our rules would result in a complaint which still states a cause of action, the Examiner finds no reason to strike such.

Secondly, matter that is unintelligible but not irrelevant, redundant or scandalous need not be stricken.

Finally, Respondent's last challenge to the fourth and fifth paragraphs on the basis of irrelevance cannot be sustained. The fourth paragraph states: "I was told by supervision that the quality of my work performance was not an issue." Such fact, if proven, may inductively lead to an inference that the alleged discharge of Complainant was without cause and, thus, the sole explanation for such discharge was Complainant's alleged union activity, allegedly known to the Respondent. The fifth and sixth paragraphs state: "While employed at the Center, I founded and organized the Blood Center Employees Donor Club, and was elected as Chairperson of the club. "During my employment I contacted a Union Staff Representative from District Council 48, AFSCME, AFL-CIO and was instructed as to how to organize a union at the Center. I then proceeded to talk to a number of my fellow workers about unionization." Liberally construing such paragraphs together, an inference exists that acting as Chairperson of the Blood Center Employees Donor Club, Complainant engaged in organizational activities on its behalf. Such might in turn, taken with other evidence, indicate that Complainant engaged in protected activities.

On the basis of the foregoing, Respondent's Motion to Strike Parts of the Complaint is denied.

Dated at Milwaukee, Wisconsin, this 23rd day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stanley H. Michelstetter II  
Stanley H. Michelstetter II, Examiner

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<sup>1/</sup> Such states in relevant part: "If any pleading contains irrelevant, redundant or scandalous matter, it may be struck out. . ."