

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN FEDERATION OF TEACHERS, :
AFT, AFL-CIO, :
 :
Complainant, : Case L
 : No. 18305 PP(S)-23
vs. : Decision No. 13017-A
 :
THE STATE OF WISCONSIN, :
 :
Respondent. :

ORDER DENYING MOTION TO DISMISS,
INDEFINITELY POSTPONING HEARING AND
EXTENDING DATE FOR ANSWER

On September 11, 1974, the Wisconsin Federation of Teachers, AFT, AFL-CIO, herein referred to as Complainant, having filed a complaint verified under oath by John Stevens, a copy of which verification is attached hereto and labeled as Appendix "A", and copies of such complaint omitting copies of such verification, with the Wisconsin Employment Relations Commission alleging that the State of Wisconsin, herein referred to as Respondent, had committed unfair labor practices within the meaning of Section 111.84, Wisconsin Statutes; and the Commission having by Order dated September 16, 1974 appointed Stanley H. Michelstetter II, a member of its staff, as an Examiner pursuant to Section 111.07(5), Wisconsin Statutes; and Respondent having on September 30, 1974 filed a motion to dismiss the instant complaint on the grounds that such is not signed nor sworn pursuant to Section ERF 22.02(1), Wisconsin Administrative Code, and upon the grounds that the Commission lacks jurisdiction because the instant matter involves the interpretation of an existing agreement and there are no allegations that the agreement was breached by Respondent or allegations that Complainant has been precluded from proceeding under said agreement, and therefore requesting that the time to answer be postponed; and the Examiner having contacted the parties and the parties having agreed to postpone hearing on the instant complaint to a date to be determined, and to postpone the time for filing an answer to a date to be determined; and the Examiner having considered the complaint and Respondent's motion to dismiss and being satisfied that said motion should be denied;

NOW, THEREFORE, it is

ORDERED

1. That Respondent's motion to dismiss be, and the same hereby is, denied.

2. That the hearing previously scheduled for 10:00 a.m. on Wednesday, October 9, 1974 at 30 West Mifflin Street, Madison, Wisconsin, is hereby indefinitely postponed.

3. That the date for filing an answer specified in the Notice of Hearing dated September 23, 1974 be, and the same hereby is, indefinitely extended.

Dated at Milwaukee, Wisconsin, this 2nd day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

THE STATE OF WISCONSIN, L, Decision No. 13017-A

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO DISMISS,
INDEFINITELY POSTPONING HEARING AND
EXTENDING DATE FOR ANSWER

The complaint filed in the instant matter contained a verification page, marked Appendix "A" herein, which made the complaint signed and sworn to before a person authorized to administer oaths within the meaning of Wis. Admin. Code Sec. ERB 22.02(1). Because a copy of that page was omitted from each of the additional copies filed with the Commission, Respondent was unaware of the existence of such. While it appears that such section requires the copies of the complaint to contain copies of the signature page, it is unnecessary to decide such. Respondent has shown no prejudice by the failure to do so; therefore, the Examiner waives such requirement pursuant to Wis. Admin. Code Sec. 20.01.

The motion to dismiss urges as a second ground the lack of jurisdiction in the Commission because the instant complaint requires the interpretation of a collective bargaining agreement. However, the instant complaint clearly states a cause of action for refusal to bargain by means of making a unilateral change without notice to the representative of the affected employees. The interpretation of an alleged collective bargaining agreement is not necessary to establish Complainant's cause of action. Respondent's motion is therefore denied.

Dated at Milwaukee, Wisconsin, this 2nd day of October, 1974.

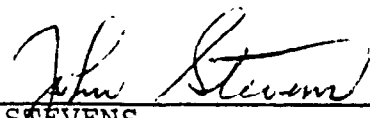
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

Appendix "A"


STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

JOHN STEVENS, being first duly sworn, on oath, deposes and says that he is the Executive Director of the Wisconsin Federation of Teachers, AFT, AFL-CIO, and that he makes this verification for and on its behalf, being duly authorized so to do; that he has read the above and foregoing Complaint and knows the contents thereof and that the same is true to his best knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes them to be true and correct.



JOHN STEVENS

Subscribed and sworn to before me
this 4 day of September, 1974.



Notary Public, Milwaukee County, WI

My Commission expires Aug. 3, 1975