

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KENOSHA EDUCATION ASSOCIATION,

Complainant,

vs.

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1,

Respondent.

Case XXXVIII
No. 18754 MP-433
Decision No. 13302-A

ORDER DENYING MOTION TO DISMISS

Kenosha Education Association having filed a complaint of prohibited practices with the Wisconsin Employment Relations Commission on January 22, 1975, wherein it alleged that Kenosha Unified School District No. 1 had committed prohibited practices within the meaning of the Municipal Employment Relations Act, and the Commission having appointed Stanley H. Michelstetter II, a member of its staff, on January 28, 1975 to act as Examiner in the matter; and the Examiner having scheduled the matter for hearing on March 19, 1975; and thereafter Respondent having filed a motion to dismiss the instant complaint on the basis that the Complainant has misjoined its claims; and the Examiner having considered said motion;

NOW, THEREFORE, it is

ORDERED

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

2. That Respondent's alternative request that the time for Answer be extended to 10 days after the date hereof be granted and the date to make Answer to the instant complaint is extended to March 14, 1975.

Dated at Milwaukee, Wisconsin, this 4th day of March, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Stanley H. Michelstetter II

Stanley H. Michelstetter II
Examiner

No. 13302-A

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO DISMISS

The Complaint alleges that the Complainant-Association filed several separate grievances with the Respondent-Employer under the parties' existing collective bargaining agreement, which the Respondent-Employer refused to process in accordance with the grievance procedure contained therein. The Complainant-Association contends that these acts are violations of Sections 111.70(3)(a) 4 and 5, and requests that

" . . . the WERC order the School District to cease and desist from engaging in the aforementioned refusals to process grievances in a good faith effort to resolve grievances and that they cease and desist from refusing to proceed to arbitration upon request.

. . . That the WERC order such other and further relief as may be appropriate to effectuate the purposes of the Act."

The Respondent-Employer, by its motion to dismiss and accompanying affidavit, alleges that the Complainant-Association misjoined "three different, unrelated and uncommon matters" and requests that the instant complaint be dismissed. 1/

Applying Wis. Rev. Stat. (1971) Sec. 263.04 by analogy 2/ it appears from the face of the complaint and Respondent-Employer's affidavit that all of the causes affect both parties hereto, do not require different places of hearing, and are stated separately. Pursuant to Wis. Admin. Code Sec. ERB 12.02 (2)(c), 3/ the allegations are properly joined.

Dated at Milwaukee, Wisconsin, this 4th day of March, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Stanley H. Michelstetter II
Stanley H. Michelstetter II
Examiner

1/ No formal motion or informal request has been made to hold hearing on each allegation at separate times.

2/ Wis. Rev. Stat. (1971) Sec. 263.04 states:

"Uniting causes of action. The plaintiff may unite in the same complaint several causes of action, whether they be such as were formerly denominated legal or equitable or both. But the causes of action so united must affect all the parties to the action and not require different places of trial, and must be stated separately."

3/ Wis. Admin. Code Sec. ERB 12.02(2)(c) states:

"A clear and concise statement of the facts constituting the alleged prohibited practice or practices including the time and place of occurrence of particular acts and the sections of the act alleged to have been violated thereby." (Emphasis supplied)