

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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UNITED BROTHERHOOD OF CARPENTERS  
AND JOINERS OF AMERICA, AFL-CIO,  
LOCAL 836,

Complainant,

vs.

M-K HARTMANN SONS, INC.,

Respondent  
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: Case II  
: No. 19524  
: Ce-1627  
: Decision No. 13934-A  
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ORDER DENYING MOTION TO DISMISS AND RESCHEDULING HEARING

United Brotherhood of Carpenters and Joiners of America, AFL-CIO Local No. 836, having filed a complaint of unfair labor practices with the Wisconsin Employment Relations Commission on September 2, 1975 attached to which was a purported collective bargaining agreement, but which attachment was omitted from the filed copies of the complaint cited, and the Commission having by Order dated September 5, 1975 appointed Stanley H. Michelstetter II, a member of its staff, as an Examiner pursuant to Section 111.07, Wisconsin Statutes; and Respondent having filed a Motion to Dismiss the instant complaint on the basis that in the absence of said alleged agreement the complaint fails to state a cause of action and that Respondent has no basis for stating or preparing a defense and having moved that any hearing be held in Madison, Wisconsin; and Complainant having filed additional copies of the collective bargaining agreement to be attached to the copies of the complaint (a copy of which is to be provided ); and the Complainant having agreed to the holding of a hearing in Madison, Wisconsin; and the Examiner having considered Respondent's motions and being satisfied that the Motion to Dismiss be denied and that hearing herein should be rescheduled and held in Madison, Wisconsin

NOW THEREFORE, it is

ORDERED

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

No. 13934-A

2. That the hearing previously scheduled for September 30, 1975 at 9:30 a.m. at the Milwaukee State Office Building, Milwaukee, Wisconsin be, and the same hereby is, postponed and relocated to November 7, 1975 at 10:00a.m. in Room 910 at 30 West Mifflin Street, Madison, Wisconsin.

3. That the date for filing an answer specified in the Notice of Hearing dated September 10, 1975 be, and the same hereby is, extended to October 10, 1975.

Dated at Milwaukee, Wisconsin, this 29th day of September, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

by Stanley H. Michelstetter II

Stanley H. Michelstetter II  
Examiner

MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION TO DISMISS AND RESCHEDULING HEARING

Complainant filed its complaint on September 2, 1975 alleging that Respondent was a signator to a collective bargaining agreement and that by certain acts it was "... in direct violation of the Collective Bargaining Agreement (attached) ...". Although a copy of a purported collective bargaining agreement was attached to the original complaint, none of the copies thereof had a copy of the purported collective bargaining agreement attached. Section ERB 12.02 (1) <sup>1/</sup> requires in relevant part that "Four additional copies of the complaint shall be filed, together with one additional copy for each named party." ERB 10.01 states in relevant part:

"These rules shall be liberally construed to effectuate the purposes and provisions of subchapter IV of Chapter III, Wis. Stats. The Commission, or Fact Finder, as the case may be, may waive any requirements of these rules unless a party shows prejudice thereby."

Complainant has since filed the necessary number of copies of the purported collective bargaining agreement attached to the original Complaint. The Examiner waives the requirement of ERB 12.02 (1), but will grant Respondent's request for a postponement to provide adequate time to prepare. <sup>2/</sup>

Dated at Milwaukee, Wisconsin, this 29th day of September, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BY Stanley H. Michelstetter II  
Stanley H. Michelstetter II  
Examiner

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<sup>1/</sup> All citations herein are to Wisconsin Administrative Code.

<sup>2/</sup> cf. The State of Wisconsin, (13017-A) 10/74.

