

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

GENERAL DRIVERS, DAIRY EMPLOYEES AND
HELPERS LOCAL UNION 579 AFFILIATED
WITH THE INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN &
HELPERS OF AMERICA,

Complainant,

vs.

VILLAGE OF CLINTON,

Respondent.

Case 11
No. 19807 MP-545
Decision No. 14141-A

ORDER GRANTING IN PART AND DENYING IN PART
MOTION TO MAKE MORE DEFINITE AND CERTAIN

A prohibited practices complaint having been filed with the Wisconsin Employment Relations Commission, herein Commission, by General Drivers, Dairy Employees and Helpers Local Union 579 Affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein Complainant, on November 18, 1975, wherein it alleged that Village of Clinton, herein Respondent, had committed prohibited practices within the meaning of the Municipal Employment Relations Act; and the Commission having appointed Amedeo Greco, a member of the Commission's staff to act as Hearing Examiner in the matter; and the Examiner having scheduled the matter for hearing; and thereafter Respondent on November 25, 1975, having filed a Demand for Bill of Particulars; and Complainant having replied on December 1, 1975, wherein it opposed said Motion; and Respondent in turn having on December 3, 1975, filed a statement in support of its Motion; and the Examiner having considered said Motion;

NOW, THEREFORE, it is

ORDERED

1. That Respondent's Motion filed in the above entitled matter be, and the same hereby is, granted in part, and that therefore said complaint specify the "other acts" which Respondent is charged with committing in paragraph seven of the complaint.
2. That Complainant need not supply any other additional information.

Dated at Madison, Wisconsin this 10th day of December, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Amedeo Greco, Examiner

MEMORANDUM ACCOMPANYING ORDER GRANTING
IN PART AND DENYING IN PART MOTION TO
MAKE MORE DEFINITE AND CERTAIN

Respondent requests that Complainant inform it as to "what acts of the Respondent Complainant believes constituted prohibited practices in violation of Section 111.70(3)(a)(1), (3) and (14) of the Wisconsin Statutes". In response, Complainant primarily states that: (1) it is unaware of any procedure which "permits a bill of particulars like that demanded by respondent" and; (2) it contends that the complaint is sufficiently detailed.

As to Complainant's point (1)', ERB rule 12.03(3) states that:

"(3) MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged to be so indefinite as to hamper the respondent or any other party in the preparation of its answer to the complaint such party may, within 5 days after the service of the complaint, by motion request the commission to order the complainant to file a statement supplying specified information to make the complaint more definite and certain."

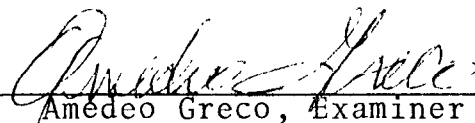
Here, although Respondent's Motion is entitled "Demand for Bill of Particulars", it in effect is the same as a Motion to Make More Definite and Certain. Accordingly, and because ERB rule 12.03(3) provides that a respondent can request specificity of the acts with which it is charged, the Examiner finds that Respondent is entitled to make the request herein.

Turning to the information requested, the Examiner concludes that paragraph five of the complaint states with sufficient clarity the acts alleged and that, therefore, Complainant need not provide any further information regarding such allegations. However, paragraph seven of the complaint goes on to state that Respondent has committed prohibited practices by "these and other acts". The phrase "other acts" is not elsewhere defined in the complaint. Inasmuch as Respondent is entitled to know the specific alleged acts in issue so that it can then have adequate knowledge of the charges against which it must defend, Complainant is required to provide the specific acts, if any, encompassed by the phrase "other acts". 1/ Such information is to be supplied by December 19, 1975.

Dated at Madison, Wisconsin this 10th day of December, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Amedeo Greco, Examiner

1/ Although Complainant requests that it be given an additional opportunity to answer Respondent's Motion if it is determined that said Motion has been properly filed, that request is hereby denied as no showing has been made as to why any such additional response is necessary.