

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Respondent.

Case I
No. 20373 Ce-1668
Decision No. 14556-A

Retail Store Employees Union, Local 444, AFL-CIO, herein referred to as Complainant, having on April 12, 1976 filed a complaint with the Wisconsin Employment Relations Commission wherein it alleges that Soundstage, A Division of Hi Fi Salon, herein referred to as Respondent, has 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 staff, to act as Examiner and to make and issue findings of fact, conclusions of law and orders as provided in Section 111.07(5) of the Wisconsin Employment Peace Act; and pursuant to notice, hearing on said complaint having been held and closed at Milwaukee, Wisconsin, on May 18, 1976, before the Examiner; and Respondent having by letter requested the opportunity to file additional evidence and make further argument, and Complainant having objected therein on the basis that the foregoing is untimely and that the parties agreed to end the hearing with oral arguments; and the Examiner having considered the foregoing makes and files the following

1. That since Complainant has failed to show prejudice by the admission in evidence of the letter written on behalf of Bethke's Sales & Service, the foregoing is admitted in evidence as Employer's Exhibit 3.
2. That since Complainant has failed to show prejudice by the consideration of Respondent's argument received June 23, 1976, hearing in the instant matter is re-opened to allow the foregoing and Complainant's counter-argument with respect thereto to be

considered in the determination of this matter.

3. That Complainant file with the examiner any counter-argument it wishes to make with respect to the evidence submitted in 1. above within ten days of the date of this Order, delivering a copy thereof to Respondent at the same time.

Dated at Milwaukee, Wisconsin, this 31 day of August, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

MEMORANDUM ACCOMPANYING
ORDER ADMITTING POST-HEARING EXHIBIT AND
RE-OPENING HEARING FOR FURTHER ARGUMENT

In a letter dated June 19, 1976, received June 23, 1976, Respondent's representative submitted a photocopy of an undated letter written on behalf of Bethke's Sales & Service. In Respondent's letter it made an additional argument based on the foregoing document and the record as a whole. The Examiner forwarded to Complainant a copy of both the transmitting letter and enclosed document, according Complainant 15 days in which to state any objection it might have. Complainant timely objected on the basis that the photocopy was not timely and that the parties to the hearing agreed to end it with oral arguments.

Although the Examiner closed hearing on May 18, 1976, Respondent has failed to show any prejudice by admission of the Bethke letter to evidence and consideration of Respondent's arguments.^{1/} The Bethke letter is admitted as Employer's Exhibit 3; and Respondent's argument will be considered. Complainant is accorded ten days from the date of this Order to file a brief written counter-argument. Nothing herein should be construed as a determination of the probative weight to be accorded the Bethke letter.

Dated at Milwaukee, Wisconsin, this 31st day of August, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

^{1/} Wis. Admin. Code, Sec. ERB 1.01, which states: "These rules are adopted to aid the commission and interested persons in proceedings under the act. The commission may waive any requirement of these rules unless a party shows prejudice thereby. See ERB 2.16; cf. ERB 10.19.