

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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LOCAL 2738, AFSCME, AFL-CIO,

Complainant,

vs.

GATEWAY VOCATIONAL, TECHNICAL AND  
ADULT EDUCATION DISTRICT,

Respondent.  
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Case XIII

No. 23700 MP-909

Decision No. 16664-A

ORDERS MAKING COMPLAINT MORE DEFINITE AND CERTAIN,  
SETTING DATE FOR ANSWER; AND SETTING DATE FOR PRE-HEARING CONFERENCE

On November 1, 1978 Local 2738, AFSCME, AFL-CIO, hereinafter Complainant, filed a complaint of prohibited practices against Gateway Vocational, Technical and Adult Education District, hereinafter Respondent. On November 10, 1978, the Wisconsin Employment Relations Commission appointed Sherwood Malamud, a member of its staff, as an Examiner to make and issue Findings of Fact, Conclusions of Law and Orders in the matter, and the Examiner set hearing in the matter for November 29, 1978. On November 16, 1978, Respondent filed a Motion to Make More Definite and Certain; a Motion for Extension of Time to Answer; and a Motion for Postponement of Hearing. On November 17, 1978 Complainant submitted a letter in opposition to all of Respondent's motions. The Examiner being fully advised in the premises, makes and issues the following

ORDERS

1. That Complainant make its complaint more definite and certain by amending said complaint by:
  - a. Stating the specific manner in which Respondent has failed and refused to comply with and obey Arbitrator Joseph Kerkman's award dated June 13, 1978, including specific dates upon which Respondent has allegedly failed and refused to comply with said award and specific acts by which Respondent has allegedly failed and refused to comply with said award.
  - b. Stating whether the conduct to be alleged in compliance with par. (1)(a) of this Order also constitutes the basis for its allegation that Respondent has violated Section 111.70(3)(a) 1, 2, 3 and 4 of the Municipal Employment Relations Act or if other conduct constitutes the basis of its charge of a violation of Section 111.70(3)(a) 1, 2, 3, 4 and 5, by stating the specific acts and the dates on which such alleged acts occurred and by specifically identifying and relating the conduct alleged to the statutory violation charged.
2. That the amendments ordered in paragraph 1 above be filed no later than December 1, 1978. Failure to file said amendments in a timely manner may be sufficient cause to dismiss the complaint.

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3. That Respondent file its answer to the amended complaint with the Commission no later than December 15, 1978 and serve a copy of same on the above date on Mr. Bruce F. Ehlke, Lawton and Cates, Attorneys at Law, 110 East Main Street, Madison, Wisconsin, 53703.
4. That hearing in the matter is hereby postponed to a date to be set during the pre-hearing conference scheduled in paragraph 5 below.
5. That a pre-hearing conference in the matter is hereby set and scheduled for Wednesday, December 20, 1978 at 10:30 a.m. at the Kenosha County Courthouse, Kenosha, Wisconsin, at which time and place both Complainant and Respondent shall be prepared to:
  - a. Submit witness lists.
  - b. Submit Exhibits for marking.
  - c. Stipulate, where both parties agree, to any facts or evidence to be submitted at the hearing in the matter.

Dated at Madison, Wisconsin this 22nd day of November, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Sherwood Malamud  
Sherwood Malamud, Examiner

MEMORANDUM ACCOMPANYING ORDERS MAKING COMPLAINT MORE DEFINITE  
AND CERTAIN, SETTING DATE FOR ANSWER;  
AND SETTING DATE FOR PRE-HEARING CONFERENCE

The Examiner has directed Complainant to make its complaint more definite and certain. Compliance with the attached Order through Complainant's amendment of the complaint will conform said pleading to the rules of the Commission, specifically ERB 12.02(2)(c). 1/

Counsel, in his letter in opposition to Respondent's motions, states that it was his

"... understanding that numerous letters were sent by the parties to each other regarding the issue raised in this case, prior to the complaint being filed. Expecially [sic] under the circumstances here, it truly is difficult to imagine how the Employer does not know what the case is about."

The clear and concise pleadings which will result from compliance with the attached Order will provide the Examiner, as well as Respondent, with a better understanding of the issues in this case.

The Examiner has set a timetable for the filing of the amended complaint and the answer thereto. In addition, a pre-hearing conference in the matter has been set which should serve to avoid delay and aid in the presentation of evidence at the hearing.

Dated at Madison, Wisconsin this 22nd day of November, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Sherwood Malamud

Sherwood Malamud, Examiner

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1/ ERB 12.02(2)(c) provides that a complaint shall contain:

"(c) 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."