

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

NORTHWEST UNITED EDUCATORS,	:	
	:	
Complainant,	:	
	:	Case X
and	:	No. 24027 MP-933
	:	Decision No. 16806-A
TURTLE LAKE SCHOOL DISTRICT,	:	
	:	
Respondent.	:	
	:	
	:	

ORDER DENYING MOTION FOR RECONSIDERATION OF  
EXAMINER'S ORDER, GRANTING IN PART AND DENYING IN  
PART MOTION TO MAKE EXAMINER'S ORDER MORE CLEAR, SETTING  
NEW ANSWER DATE AND POSTPONING DATE OF HEARING

Northwest United Educators, hereinafter Complainant, having on January 18, 1979, filed a complaint with the Wisconsin Employment Relations Commission alleging that Turtle Lake School District, hereinafter Respondent, has committed prohibited practices within the meaning of the Municipal Employment Relations Act; and the Commission having appointed Dennis P. McGilligan, Examiner, to make and issue Findings of Fact, Conclusions of Law and Order; and Respondent on January 31, 1979, having filed a Motion to Make More Definite and Certain; and the Examiner, having on February 2, 1979, issued an Order Granting Motion to Make Complaint More Definite and Certain; and thereafter Complainant on February 7, 1979, having filed a Motion for reconsideration of the aforementioned Examiner's Order dated February 2, 1979 or in the alternative, a Motion to Make Said Order More Clear; and the Examiner being advised in the premises, makes and issues the following

ORDER

1. That Complainant's Motion for Reconsideration of the Examiner's Order be, and the same hereby is, denied.

2. That Complainant's Motion to Make Examiner's Order More Clear be, and the same hereby is, granted with respect to point number one (1) of said Order: in this regard the Complainant shall state in a clear and concise form in what manner Respondent non-renewed the individual teaching contract of Ms. Bent without cause in violation of Article VIII (A) of the collective bargaining agreement; the Complainant shall state what, if any, procedural objections it has to the Respondent's conduct, the Complainant shall also state what substantive grounds, if any, given by the Respondent for Ms. Bent's non-renewal, it finds fault with; the Complainant shall further state any other grounds it has for claiming the Respondent's action(s) was were without cause; with respect to all of the above the Complainant shall include names, dates and specific conduct involved therein wherever possible.

3. That Complainant's Motion to Make Examiner's Order More Clear be, and the same hereby is, denied with respect to point number two (2) of the aforementioned Examiner's Order.

And furthermore, that Complainant file the above information with the Commission and serve a copy of same upon Respondent on or before

March 9, 1979, and that the date for filing an Answer is hereby extended to March 26, 1979, and that hearing in the matter is postponed to Tuesday, April 10, 1979, at 10:30 a.m. in the Circuit Court Room, Barron County Courthouse, Barron, Wisconsin.

Dated at Madison, Wisconsin this 20th day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Dennis P. McGilligan  
Dennis P. McGilligan, Examiner

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION FOR  
RECONSIDERATION OF EXAMINER'S ORDER, GRANTING IN PART  
AND DENYING IN PART MOTION TO MAKE EXAMINER'S ORDER MORE  
CLEAR, SETTING NEW ANSWER DATE AND POSTPONING DATE OF HEARING

On January 18, 1979, Complainant filed a prohibited practice complaint alleging that Ms. Bent was non-renewed by Respondent without the requisite just cause required by the parties' collective bargaining agreement. The Complainant also alleged that Respondent violated Wisconsin Statute 111.70(3)(a)4 by unilaterally imposing a change in working conditions on Ms. Bent while collective bargaining for a new labor contract was in progress.

On January 31, 1979, Respondent filed a Motion to Make the Complaint More Definite and Certain and on February 2, 1979, the Hearing Examiner granted said Motion and ordered as follows:

1. With respect to the allegation that Respondent non-renewed the individual teaching contract of Ms. Bent without cause in violation of Article VIII(A) of the collective bargaining agreement, state in a clear and concise form in what manner Respondent is alleged to have failed to comply therewith, including names, dates and specific conduct involved therein.

2. With respect to the allegation that Respondent unilaterally imposed a change in working conditions on Ms. Bent while bargaining for a new collective bargaining agreement was in progress, state in a clear and concise manner the individual(s) allegedly involved, what working condition(s) was (were) allegedly involved, when same allegedly occurred and what conduct of identified agents of Respondent is alleged to have constituted same.

Thereafter on February 9, 1979, Complainant filed a Motion for Reconsideration of the Examiner's Order to Make the Complaint More Definite and Certain or, in the alternative, a Motion to Make Said Order More Clear. The Complainant argued that it was unable to ascertain the manner in which to comply with said Order because "it is both difficult and useless for the Association to provide the employer with the names, dates and specific manner by which the employer violated this provision." The Complainant also argued that it was in no position to know the "real reasons" behind Respondent's actions. Underlying these arguments is the Complainant's assumption that the necessary facts have been alleged in its complaint to support its contentions.

This is not the case. Paragraphs VII(a) and VII(b) of the complaint, cited by the Complainant in an accompanying memorandum in support of the motion, are legal conclusions. Both paragraph IV of the complaint which refers to the just cause provision of the parties' collective bargaining agreement and paragraph V(c) of the complaint which states that the Respondent non-renewed Ms. Bent are also cited by Complainant in its memorandum. However, neither these paragraphs or any other section of the complaint specifically alleges facts as to why Ms. Bent was non-renewed without just cause or why Respondent violated the Wisconsin Statutes by unilaterally imposing a change in working conditions on Ms. Bent while negotiations for a new labor agreement were in progress. Basically, the Respondent's Motion sought a description of the particular acts, including names and dates, which the Complainant relies on to support its allegations. The Commission, in its rules ERB 12.02(2)(c) provides that a complaint must contain this information. The Examiner granted Respondent's Motion To Make More Definite And Certain in order to comply with the Commission's rules and therefore denies Complainant's Motion for Reconsideration of the Examiner's Order.

The Examiner has granted Complainant's Motion To Make Said Order More Clear with respect to point number one (1) of the Order to clarify more specifically what information should be provided in order to comply with the direction contained therein. The Examiner has denied the Complainant's Motion To Make More Clear with respect to point number two (2) of the aforementioned Order since, in the Examiner's opinion, this direction is clear and self-explanatory. The Examiner believes that Respondent need not have to go searching through Complainant's Memorandum filed in support of its Motion to find factual allegations which should be in the complaint. Insofar as the Memorandum contained any factual support for the allegation that Section 111.70(3)(a)4 of the Wisconsin Statutes has been violated, said facts should be put in their proper form.

The Complainant requested in its Memorandum that the Examiner grant it the right to discovery. Since there was no showing of cause the Examiner denies this request.

The Examiner had extended the date for Answer in order to facilitate the direction of the above Order. The Examiner further has postponed the hearing date of March 7, 1979 pursuant to the joint request of the parties and in order that the parties have sufficient time to comply with the above Order.

Dated at Madison, Wisconsin this 20th day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Dennis P. McGilligan, Examiner