

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN POLICE NEGOTIATORS, INC., :
 :
Complainant, : Case I
 : No. 25222 MP-1042
vs. : Decision No. 17371-B
 :
WISCONSIN PROFESSIONAL POLICEMEN'S :
ASSOCIATION, a/k/a WISCONSIN :
PROFESSIONAL POLICE ASSOCIATION, :
 :
Respondent. :
 :

ORDER DENYING MOTION TO DISMISS

Wisconsin Police Negotiators, Inc., herein referred to as Complainant, filed a complaint of prohibited practices on October 16, 1979 against Wisconsin Professional Policemen's Association, a/k/a Wisconsin Professional Police Association, herein referred to as Respondent. The Commission substituted Stanley H. Michelstetter II, a member of the Commission's staff, as Examiner to make and issue findings of fact, conclusions of law and order. On November 7, 1979 Respondent filed a motion to dismiss on the basis that the complaint fails to comply with Wis. Admin. Code Section ERB 12.02, essentially, in that the complaint lacks information from which the time and place of the occurrence of the alleged events can be identified and those who allegedly participated in the acts. The Examiner being fully advised in the premises makes and issues the following

ORDER

1. The motion to dismiss in the above-captioned matter is denied.
2. That hearing in the matter will proceed on March 11, 1980, at 9:00 a.m. at the University of Wisconsin-Extension, Civic Center Campus, 929 North Sixth Street in Milwaukee, Wisconsin.
3. That the time by which Respondent shall file his answer is hereby extended to February 13, 1980, and on the same date Respondent shall serve a copy thereof on Mark T. Baganz at the address noted in the notice of rescheduled hearing.

Dated at Milwaukee, Wisconsin this 30th day of January, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO DISMISS

On October 16, 1979, Complainant filed a complaint which alleges that Respondent is acting as a representative of municipal employees for the purposes of collective bargaining within the meaning of the Municipal Employment Relations Act (herein Act). It further alleges that Respondent, and Respondent's Board of Directors, includes as members supervisors within the meaning of the Act and that the Board of Directors establishes collective bargaining policy for Respondent, ratifies collective bargaining agreements and otherwise manages the affairs of Respondent. It, in essence, alleges that these acts are prohibited practices within the meaning of Paragraphs 111.70(3)(a)1, 2 and (3)(c) of the Act. On November 7, 1979, Respondent filed a Notice of Appearance and Motion to Dismiss instead of an answer in which it, inter alia, moved for an order of dismissal in that the complaint allegedly failed to comply with Wis. Admin. Code Section ERB 12.02^{1/} because, among other unspecified infirmities, the complaint does not allege the time, place and participants of any of the occurrences of alleged events. In view of the nature of the allegations, alleging primarily status rather than occurrences, I conclude they sufficiently comply with Section ERB 12.02. I have, therefore, denied the motion to dismiss.

Dated at Milwaukee, Wisconsin this 30th day of January, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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

^{1/} Only ERB Section 12.02(2) is relevant. It states:

(2) CONTENTS. Such complaint shall contain the following:

(a) The name, address, and affiliation, if any, of the complainant, and of any representative thereof.

(b) The name and address of the respondent or respondents, and any other party named therein.

(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.

(d) A prayer for specific and general relief.