

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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THOMAS L. SCHROEDER,	:	
	:	
Complainant,	:	
	:	
vs.	:	
	:	Case CXLIV
DEPARTMENT OF MILITARY AFFAIRS,	:	No. 25400 PP(S)-69
NATIONAL GUARD ARMORY and LOCAL 221,	:	Decision No. 17495-A
WSEU,	:	
	:	
Respondents.	:	
	:	

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ORDER TO AMEND THE COMPLAINT  
TO MAKE MORE DEFINITE AND CERTAIN

Thomas L. Schroeder, herein Complainant, having, on November 30, 1979, filed a complaint of unfair labor practices with the Wisconsin Employment Relations Commission, wherein he alleges that the Wisconsin Department of Military Affairs, National Guard Armory and Local 221, Wisconsin State Employees Union, herein Respondents, have committed certain unfair labor practices; and the Commission, on December 10, 1979, having appointed William C. Houlihan, a member of the Commission's staff, to act as Examiner in the matter; and Respondent, Department of Military Affairs, having, on December 17, 1979, moved for an Order to Make the Complaint More Definite and Certain; and the Examiner having, on December 28, 1979, granted, in part, the Motion to Make More Definite and Certain; and the Wisconsin Administrative Code, Section E.R.B. 22.02(2)(b) requires that a complaint of unfair labor practices shall contain a clear and concise statement of the facts constituting said unfair labor practice; and the Wisconsin Administrative Code, Section E.R.B. 22.02(2)(d) requires that a complaint of unfair labor practices shall contain a prayer for specific and general relief; and the Examiner finding said complaint being so indefinite as to not be in compliance with the aforesaid requirements, makes and issues the following:

ORDER

That Complainant, on or before February 1, 1980, make his complaint more definite and certain by stating with specificity those facts alleged to constitute unfair labor practices within the meaning of Section 111.84, Wis. Stats., including the time and place of occurrence of particular acts, and also make his complaint more definite and certain by including a prayer for relief.

Dated at Madison, Wisconsin this 14th day of January, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By William C. Houlihan  
William C. Houlihan, Examiner

MEMORANDUM ACCOMPANYING ORDER TO AMEND THE COMPLAINT  
TO MAKE MORE DEFINITE AND CERTAIN

Following receipt of the complaint in this matter Respondent, Department of Military Affairs moved for an Order directing the Complainant to make his complaint more definite and certain in a number of ways.

Initially, Respondent, Department of Military Affairs seeks to require the Complainant to:

Limit each paragraph to one factual allegation that may be either affirmed or denied inasmuch as the narrative style used is both confusing and chaotic;

This portion of the motion is denied. The Complaint, while not a stylistic model, does proceed in paragraphs containing either a single, or a relatively few, factual statements. The format provides the Respondent an adequate basis upon which to predicate an answer.

Respondent seeks an order which would:

Eliminate the argumentative material in the body of the Complainant's complaint so as to limit the complaint to factual allegations;

This portion of the motion is denied. While the complaint does contain argumentative material, that material does not compromise the notice value of the complaint. To require more elaborate pleadings from a Complainant who appears to be proceeding pro se is to unnecessarily restrict access to the legal process.

Respondent seeks an order directing the Complainant to:

Provide detailed information regarding the attempted grievance and the incidents involved that are referenced in the fifth paragraph of the Complainant's complaint;

The fifth paragraph of the complaint is vague in a number of respects. The complaint should be clarified to indicate what efforts were made to file a grievance, when those efforts were made, and why those efforts were unsuccessful. Additionally, the Complainant should specifically indicate whether or not he is alleging that the Union has committed unfair labor practices.

Respondent seeks to require the Complainant to:

Provide information on the specific acts, dates and parties involved that are alleged to be violations;

The complaint alleges numerous violations of the collective bargaining agreement, but provides no indication of when and under what circumstances the alleged violations occurred. The complaint should be clarified to reflect this information.

Finally, Respondent seeks to require the Complainant to:

Delineate which specific alleged acts of the Employer violate the provisions of the State Employment Labor Relations Act ss. 111.80 et. seq, and state what sections of s. 111.84, Wisconsin Statutes, those alleged acts violate.

The complaint specifically alleges a violation of Section 111.84(1)(e), Wis. Stats. This is sufficient to place the Respondent on notice of the statutory basis of the complaint. If the Complainant is alleging a violation of statute other than 111.84(1)(e), the particulars of any such allegation should be identified, by the Complainant, in the more definite and certain statement.

The complaint contains no prayer for relief. Pursuant to Wisconsin Administration Code, Section E.R.B. 22.02(2)(d), the Complainant is hereby directed to indicate what relief or remedy he seeks, should he prevail on the merits of his complaint(s).

Dated at Madison, Wisconsin this 14<sup>th</sup> day of January, 1980.

By William C. Houlihan  
William C. Houlihan, Examiner