

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WESTERN WISCONSIN TECHNICAL
INSTITUTE FACULTY, LOCAL 3605,
WFT, AFT, AFL-CIO and WISCONSIN
FEDERATION OF TEACHERS, AFT, AFL-CIO,

Complainants,

vs.

WESTERN WISCONSIN VOCATIONAL,
TECHNICAL AND ADULT EDUCATION
DISTRICT and ARLYSS GROSSKOPH,

Respondents.

Case IX
No. 25874
MP-1084
Decision No. 17714-A

ORDER DENYING MOTION
TO STRIKE ALLEGATIONS CONTAINED
IN PARAGRAPH 13 OF THE COMPLAINT

The above-named Complainants having on March 12, 1980, filed a complaint with the Wisconsin Employment Relations Commission alleging that the above-named Respondents have committed prohibited practices within the meaning of the Municipal Employment Relations Act; and the Commission having appointed Stephen Pieroni, Examiner to make and issue Findings of Fact, Conclusions of Law and Order: and Respondents on April 24, 1980, having filed a Motion to Strike Paragraph 13 of the Complaint; and the Examiner being advised in the premises, makes and issues the following

ORDER

That Respondents' motion to strike paragraph 13 of the Complaint be, and the same hereby is, denied.

Dated at Madison, Wisconsin this *9th* day of May, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Stephen Pieroni
Stephen Pieroni, Examiner

emw

No. 17714-A

WESTERN WISCONSIN VOCATIONAL, TECHNICAL & ADULT EDUCATION DISTRICT
and ARLYSS GROSSKOPF, Case IX, No. 17714-A

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION TO
STRIKE ALLEGATIONS CONTAINED
IN PARAGRAPH 13 OF THE COMPLAINT

Paragraph 13 of the instant Complaint alleges as follows:

"Such change was intended to, and did make the job more onerous, so onerous in fact that it created a danger to the health of Ms. Cunningham. When this danger was called to the attention of the Respondents, they continued to insist that Ms. Cunningham continue to work under conditions they knew, or should have known, were detrimental to her health."

Respondents' motion to strike paragraph 13 of the Complaint is based upon the contention that Complainants have refused to release medical records and opinions relating to allegations contained in paragraph 13 and have further refused Respondents' request that Ms. Cunningham submit herself to examination by a doctor of Respondents' choice.

Complainants have opposed the instant motion on the grounds that Respondents have failed to cite any rule of the Wisconsin Employment Relations Commission, any statute or any court decision which would support their request to strike the allegation because Complainants have refused to grant them any discovery. Complainants cite a long-standing policy of the Commission to avoid procedures that lead to discovery prior to a hearing.

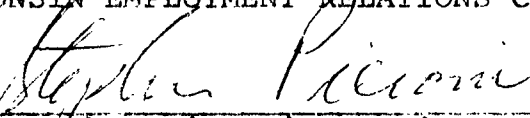
The Examiner has denied Respondents' Motion to Strike Paragraph 13 of the instant complaint because the Examiner is not aware of any Wisconsin Employment Relations Commission precedent or other legal authority which, under these circumstances, would support an order striking the allegations contained in paragraph 13 of the complaint.

The Examiner's conclusion is buttressed by the fact that Respondents have available to them a less drastic remedy. That is, pursuant to ERB 10.14, Hearing Subpoenas, Respondents could subpoena Ms. Cunningham and/or her doctor and include in the subpoena a request for the production of relevant medical records and opinions.

Dated at Madison, Wisconsin this 7th day of May, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Stephen Pieroni, Examiner

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