

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

NORTHVIEW HOME AND NORTHVIEW HOSPITAL	:	
OF WAUKESHA COUNTY EMPLOYEES LOCAL 2494	:	
AFSCME, AFL-CIO,	:	Case LXVI
	:	No. 27375 MP-1186
Complainant,	:	Decision No. 18402-A
	:	
vs.	:	
	:	
NORTHVIEW HOME AND NORTHVIEW HOSPITAL	:	
OF WAUKESHA COUNTY,	:	
	:	
Respondent.	:	
	:	

ORDER DENYING MOTION FOR DISMISSAL, OR IN
THE ALTERNATIVE, MOTION TO REQUIRE
SPECIFICITY OF PLEADINGS

The above-named Complainant filed a complaint with the Wisconsin Employment Relations Commission on January 19, 1981 alleging that the above-named Respondent had committed prohibited practices within the meaning of Section 111.70 of the Municipal Employment Relations Act. The Commission by its Order dated January 26, 1981 appointed Stuart S. Mukamal as Examiner to hold hearing on said complaint and to make and issue Findings of Fact, Conclusions of Law and Order as set forth in Section 111.07(5) of the Wisconsin Statutes. On February 17, 1981, the Respondent filed its Motion for Dismissal, or in the Alternative, Motion to Require Specificity of Pleadings with said Examiner. On the basis of the record of this matter and in accordance with applicable law, the Examiner makes and files the following

ORDER

That the Respondent's Motion for Dismissal, or in the Alternative, Motion to Require Specificity of Pleadings is hereby denied.

Dated at Milwaukee, Wisconsin this 18th day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stuart Mukamal
 Stuart S. Mukamal, Examiner

MEMORANDUM ACCOMPANYING ORDER DENYING
MOTION FOR DISMISSAL, OR IN THE ALTERNATIVE
MOTION TO REQUIRE SPECIFICITY OF PLEADINGS

It is clear that a Motion to Dismiss would not be appropriately granted under the circumstances inasmuch as the complaint filed herein does allege violations of particular provisions of the Municipal Employment Relations Act. Furthermore, this matter does appear to fall within the Commission's jurisdiction. Said motion is therefore denied. I shall therefore consider the Respondent's alternative Motion to Require Specificity of Pleadings.

The Respondent's Motion in this matter was filed on February 17, 1981. The Respondent received actual notice of this proceeding and of the date of hearing on January 29, 1981 as evidenced by a return receipt for certified mail, signed by an agent of the Respondent. Wis. Adm. Code Ch. ERB Section 12.03(3) states that:

"(3) MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged to be so indefinite as to hamper the respondent or any other party in the preparation of its answer to the complaint, such party may, within 5 days after the service of the complaint, by motion request the Commission to order the complainant to file a statement supplying specified information to make the complaint more definite and certain."

The Respondent filed its Motion well after the passage of 5 days even excepting Saturdays, Sundays and legal holidays (as specified in Ch. ERB Section 10.08(1)) and therefore its Motion is untimely filed.

Even were this Motion to be timely filed, it is without merit. Ch. ERB Section 12.04(2) requires that a complaint alleging that a party has engaged in prohibited practices within the meaning of the Municipal Employment Relations Act contain the following information:

- " . . . (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."

The complaint filed herein clearly complies with the above requirements. It provides sufficient information as to the identity and addresses of the parties and their representatives, the events giving rise to the complaint, the sections of the Municipal Employment Relations Act alleged to have been violated by the Respondent and the relief sought. It also provides a sufficient basis for the Respondent to file its responsive pleadings in this matter.

On the basis of the above, I conclude that the complaint filed herein is in compliance with the applicable requirements under the law regarding specificity and the Respondent's alternative Motion to Require Specificity of Pleadings is therefore denied. The hearing in this matter shall proceed as scheduled.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stuart S. Mukamal
Stuart S. Mukamal, Examiner