

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

	:	
PUBLIC EMPLOYES' LOCAL UNION #61	:	
affiliated with the LABORS'	:	
INTERNATIONAL UNION OF NORTH	:	
AMERICA, AFL-CIO, CLC,	:	
	:	CaseCCXXVII
Complainant,	:	No. 28257 MP-1231
	:	Decision No. 18809-A
vs.	:	
	:	
CITY OF MILWAUKEE	:	
	:	
Respondent.	:	
	:	

ORDER GRANTING MOTIONS TO COMPLY WITH ERB 12.02(1)
AND TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN AND
EXTENDING TIME TO FILE AN ANSWER AND RESCHEDULING HEARING

On June 23, 1981, Public Employes' Local Union #61, hereinafter Complainant, filed a complaint of prohibited practices against the City of Milwaukee, hereinafter Respondent, with the Wisconsin Employment Relations Commission, hereinafter the Commission. On July 2, 1981, the Commission appointed Lionel L. Crowley, a member of its staff, Examiner and authorized him to make and issue Findings of Fact, Conclusions of Law and Order in the matter. The written complaint was served on Respondent on July 6, 1981. On July 13, 1981, Respondent filed Motions to Comply with ERB 12.02(1) and to Make the Complaint More Definite and Certain, to extend the time for filing an answer and to reschedule the hearing. The Examiner did not receive any statement from Complainant concerning said motions. The Examiner, being fully advised in the premises, makes and issues the following

ORDERS

1. Complainant shall comply with ERB 12.02(1) which requires the original of the complaint to be signed and sworn to before any person authorized to administer oaths or acknowledgements.
2. Complainant shall amend paragraph 3 of its complaint by stating the specific provisions referred to on pages 4 and 15 of the 1981 collective bargaining agreement.
3. Complainant shall amend paragraph 5 of its complaint:
 - a. by specifying the provision or provisions of the parties collective bargaining agreement pursuant to which the Respondent allegedly hired and/or called back seasonal employes to fill vacation vacancies.
 - b. by stating the date or dates, whether made verbally or orally, by whom and to whom demands to bargain were made regarding the filling of vacation vacancies.
 - c. by identifying the Alderpersons, and in a clear and concise manner, stating the conduct of such named Alderpersons respecting the 36 vacation vacancies and the precise dates of such conduct.
 - d. by identifying the Alderpersons and, in a clear and concise manner, stating the conduct of such named Alderpersons respecting the 92 Sanitation positions and the precise dates of such conduct.
 - e. by specifying the section or sections of Section 111.70 alleged to have been violated by Respondent.

f. by stating a prayer for specific and general relief.

4. Complainant need not furnish any further requested information.

5. The Complainant shall file an amended complaint with the Examiner and a copy of same mailed to Respondent's Counsel

Nicholas M. Siegel
Principal Assistant City Attorney
800 City Hall
Milwaukee, WI 53202

on or before August 7, 1981. Failure to so amend the complaint may result in its dismissal.

6. The Respondent shall file an answer to the complaint with the Examiner and mail a copy of same to

Milton S. Padway
Padway & Padway
Attorneys at Law
Suite 800
606 West Wisconsin Avenue
Milwaukee, WI 53202

on or before August 17, 1980.

7. That the hearing scheduled for July 29, 1981 is hereby postponed to August 25, 1981 at 10:00 a.m. in the State Office Building, Room 40, Milwaukee, Wisconsin.

Dated at Madison, Wisconsin this 21st day of July, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BY Lionel L. Crowley
Lionel L. Crowley, Examiner

MEMORANDUM ACCOMPANYING ORDER GRANTING MOTIONS TO
COMPLY WITH ERB 12.02(1) AND TO MAKE COMPLAINT MORE
DEFINITE AND CERTAIN AND EXTENDING TIME TO FILE
AN ANSWER AND RESCHEDULING HEARING

The Commission in its rules, Wisconsin Administrative Code, section ERB 12.02(1) provides in part as follows:

"Such complaint shall be in writing upon a form provided by the Commission, or a facsimile thereof; the original being signed and sworn to before any person authorized to administer oaths or acknowledgements."

The Examiner has granted Respondent's motion so that compliance with said rule is satisfied.

Additionally, Wisconsin Administrative Code, section ERB 12.02(2) (c) and (d) provide that a complaint must contain, inter alia:

"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."

"A prayer for specific and general relief."

The Examiner has reviewed the complaint herein and Respondent's motion to make more definite and certain and has required Complainant to supply certain information requested in Respondent's motion in order to make the complaint conform with the Wisconsin Administrative Code set forth above, and to enable Respondent to determine the incidents complained of and to permit it to prepare an answer to the charges.

Respondent's motion to make more definite and certain requests Complainant's rationale for alleging that removal of the 92 sanitation positions will affect the working conditions and health, safety and welfare of the employees. Since the Complainant is required by the Orders herein to supply certain information which, when supplied, will afford Respondent sufficient opportunity to prepare a defense, this request is denied.

Dated at Madison, Wisconsin this 21st day of July, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley
Lionel L. Crowley, Examiner