

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE TEACHERS'	:	
EDUCATION ASSOCIATION.	:	
	:	
Complainant,	:	Case 193
	:	No. 38008 MP-1907
vs.	:	Decision No. 24422-A
	:	
MILWAUKEE BOARD OF	:	
SCHOOL DIRECTORS,	:	
	:	
Respondent.	:	
	:	

Appearances:

Mr. Stuart S. Mukamal, Assistant City Attorney, City of Milwaukee, City Hall, 200 East Wells Street, Milwaukee, WI 53202, on behalf of Complainant.

Perry, First, Lerner and Quindel, S.C., by Mr. Richard Perry and Ms. Barbara Zack Quindel, 1219 North Cass Street Milwaukee, WI 53202, on behalf of Respondent.

ORDER GRANTING MOTION TO SCHEDULE MEDICAL EXAMINATION AND TO REQUIRE THE EXCHANGE OF MEDICAL INFORMATION

The Milwaukee Teachers' Education Association, herein MTEA, having on December 19, 1986, filed a complaint with the Wisconsin Employment Relations Commission wherein it claimed that Respondent Milwaukee Board of School Directors, herein the Board, had discriminated against Ann M. Muhich because of her medical handicap in violation of their collective bargaining agreement; and the Commission on April 20, 1987, appointed Amedeo Greco, a member of the Commission's staff, to make and issue Findings of Fact, Conclusions of Law and Order, and hearing now being scheduled for July 14, 1987; and the Board on May 6, 1987, having filed an answer to said complaint where it denied discriminating against Muhich; and the Board having earlier on May 5, 1987 filed a Motion which asked for an Order to allow the Board's own doctor to examine Muhich for the purpose of ascertaining her medical condition and to also allow its own doctor to examine any medical information relating to her alleged handicap which has been compiled by Muhich's doctor; and the MTEA having on May 7, 1987 filed a response where it objected to having Muhich examined by the Board's doctor, but which did not object to turning over to the Board's doctor that part of Muhich's medical file relating to her alleged disability; and the Examiner having concluded that the Board's Motion should be granted;

NOW, THEREFORE, it is

ORDERED

1. That the Motion To Schedule a Medical Examination and To Require the Exchange of Medical Information is hereby granted.
2. That Ann M. Muhich shall make herself available for a psychiatric examination at a time agreeable to Muhich and the Board's doctor, Dr. Durward A. Baker.
3. That MTEA shall immediately transmit to Dr. Baker and the Board all medical records relating to Muhich's alleged disability which have been compiled by Muhich's personal physician, Dr. Donald Luedke, or relied upon by him in forming his diagnosis.

4. That the Board shall transmit to the MTEA and Dr. Luedke no less than two (2) weeks before the scheduled hearing of this matter the results of Dr. Baker's examination, along with all supporting data relied upon by him in forming his diagnosis.

Dated at Madison, Wisconsin this 12th day of June, 1987.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By: Amedeo Greco
Amedeo Greco, Examiner

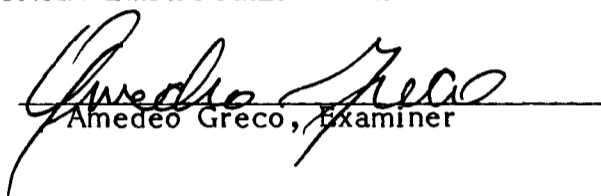
MEMORANDUM ACCOMPANYING ORDER
GRANTING MOTION TO REQUIRE THE
EXCHANGE OF MEDICAL INFORMATION AND TO
SCHEDULE MEDICAL EXAMINATION

Since the complaint here turns on whether the Board discriminated against Muhich because of her supposed depression, and since the MTEA itself apparently intends to rely on expert medical testimony at the hearing to prove that Muhich suffered from said medical disability, the Board is entitled in its defense to rebut said testimony. Since that can only be done by having its own expert examine Muhich, the Board's Order requesting that Muhich submit to a medical examination by its own doctor is hereby granted. 1/ Moreover, both parties are required to exchange all medical records relating to Muhich's medical condition prior to hearing so that each can be fully appraised of the other side's position prior to trial.

Dated at Madison, Wisconsin this 12th day of June, 1987.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By:


Amedeo Greco, Examiner

1/ The MTEA argues that such discovery is not normally permitted in Commission cases. However, the Board correctly points out that the MTEA here is charging a violation of the Wisconsin Fair Employment Act and that discovery is routine in court cases relating to this subject. That is why it is being granted.