

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DISTRICT 10, INTERNATIONAL ASSOCIATION	:	
OF MACHINISTS AND AEROSPACE WORKERS,	:	
	:	
Complainant,	:	
	:	
and	:	Case 13
	:	No. 40785 Ce-2071
	:	Decision No. 26144-D
JOANN CHRISTIAN,	:	
	:	
Intervenor-Complainant,	:	
	:	
vs.	:	
	:	
BRANDT, INC.,	:	
	:	
Respondent.	:	
	:	

Appearances:

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, by Mr. Matthew R. Robbins, 788 North Jefferson Street, Milwaukee, Wisconsin 53202, for the Complainant.

Quarles and Brady, Attorneys at Law, by Messrs. David B. Kern and Donald L. Schriefer, 411 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, for the Respondent.

Kelly and Haus, Attorneys at Law, by Mr. William Haus, 121 East Wilson Street, Madison, Wisconsin 53703-3422, for Intervenor-Complainant.

ORDER DENYING UNION'S REQUEST TO WITHDRAW THE
COMPLAINT AND REQUIRING UNION AND
INTERVENOR-COMPLAINANT TO STATE POSITION

District 10, International Association of Machinist and Aerospace Workers, herein, the Union, on June 24, 1988, filed a complaint with the Wisconsin Employment Relations Commission alleging that Brandt, Inc., herein the Employer or Respondent, had discharged Joann Christian without just cause and had thereby committed unfair labor practices within the meaning of Secs. 111.06(1)(a)(d) and (f), Stats. Hearing was held in abeyance pending settlement discussions between the parties. The Union, on August 30, 1989, advised Examiner Jane B. Buffett, a member of the Commission's staff, in writing, that it requested withdrawal of the charge with prejudice. On August 31, 1989, the Examiner received a Motion for Intervention filed on behalf of Joann Christian. On September 6, 1989, the Examiner issued an Order Dismissing Complaint, finding that the Motion for Intervention was precluded by the prior request for withdrawal. On September 12, 1989, Christian filed a petition for Commission review of the Examiner's Order. On December 21, 1989, the Commission ruled the Motion for Intervention to be timely filed, set aside the Examiner's Order, and remanded the matter to the Examiner. On January 30, 1990, the Examiner granted the Motion for Intervention. On February 13, 1990, the Union renewed its request to withdraw the complaint. The parties submitted briefs and reply briefs, the last of which was received June 4, 1990. The Examiner, having considered the matter and being fully advised in the premises, makes and issues the following

ORDER

1. The Union's request to withdraw the complaint should be, and hereby is, denied.
2. The Union shall, by September 20, 1990, state what, if any, interest it maintains in the instant complaint or whether it withdraws as a party to the complaint.

3. The Intervenor-Complainant shall, by October 1, 1990, state whether it adopts the original complaint or whether it moves to amend the pleadings.

Dated at Madison, Wisconsin this 4th day of September, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Jane B. Buffett, Examiner

BRANDT, INC.

MEMORANDUM ACCOMPANYING ORDER DENYING UNION'S REQUEST
TO WITHDRAW THE COMPLAINT AND REQUIRING UNION
AND INTERVENOR-COMPLAINANT TO STATE POSITION

On January 30, 1990, the undersigned Examiner ruled that Joann Christian met the statutory requirements, and granted her Motion for Intervention pursuant to Sec. 111.07(2)(a), Stats., which provides in pertinent part:

... Any other person claiming interest in the dispute or controversy, as an employer, an employe, or their representative, shall be made a party upon application.

Therefore, the Intervenor-Complainant is now a party and the complaint cannot be withdrawn over her objection, which has been most recently stated in her May 22, 1990 brief. To rule otherwise would be to ascribe less than full party status to an intervenor and thereby disregard the statute.

In the interests of clarifying the current procedural posture of this case, the Examiner also orders the Union to state its position regarding withdrawal as a party in the light of the instant order denying the Union's request to withdraw the complaint. Additionally, the Examiner notes the Intervenor-Complainant's brief disputes facts referred to by the Union and the Respondent in their briefs. The Intervenor-Complainant is ordered to state its interest in the existing complaint by either adopting the original complaint or moving to amend it.

Subsequent to the above-mentioned position statements of the Union and the Intervenor-Complainant, amendments to the answer will be allowed.

The Respondent's Motion for Summary Judgment will be held in abeyance pending these clarifications.

Dated at Madison, Wisconsin this 4th day of September, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Jane B. Buffett, Examiner