

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

THOMAS E. REPISCHAK,	:	
	:	
Complainant,	:	
	:	Case 1
vs.	:	No. 43882 Co-2101
	:	Decision No. 26497-A
MILWAUKEE POLICE ASSOCIATION,	:	
BILL KRUEGER and KENNETH MURRAY,	:	
	:	
	:	Respondents. :
	:	

**ORDER DENYING MOTION TO MAKE
COMPLAINT MORE DEFINITE AND CERTAIN
AND DENYING MOTION TO DISMISS COMPLAINT
AS TO RESPONDENT KENNETH MURRAY**

Mr. Thomas E. Repischak, on May 9, 1990, filed a complaint of unfair labor practices with the Wisconsin Employment Relations Commission against the Milwaukee Police Association, Bill Krueger and Kenneth Murray. On May 24, 1990, the Commission appointed Dennis P. McGilligan, a member of its staff, to act as Examiner in the matter. A hearing was scheduled for June 26, 1990 in the Milwaukee City Hall, Milwaukee, Wisconsin; and subsequently postponed to August 22, 1990, also in the City Hall, Milwaukee, Wisconsin. On June 19, 1990, the Respondents filed an Answer, a Motion to Make More Definite and Certain, and a Motion to Dismiss Complaint as to Respondent Kenneth Murray. On July 12, 1990, Thomas E. Repischak filed a Motion in Opposition to Respondents' Motion in Opposition to Respondents' Motion for Dismissal as to Respondents' Motion for Dismissal as to Respondent Kenneth Murray. On July 13, 1990, Thomas E. Repischak filed a Motion in Opposition to Respondents' Motion for More Definite and Certain Answer. The Examiner, having considered the matter, makes and issues the following

ORDER

The Motion to Make the Complaint More Definite and Certain is hereby denied. The Motion to Dismiss the Complaint as to Respondent Kenneth Murray is also denied.

Dated at Madison, Wisconsin this 18th day of July, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Dennis P. McGilligan, Examiner

By _____

**MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO MAKE
COMPLAINT MORE DEFINITE AND CERTAIN
AND DENYING MOTION TO DISMISS
COMPLAINT AS TO RESPONDENT KENNETH MURRAY**

ERB 12.03(3) Wis. Adm. Code provides:

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 above administrative rule of the Wisconsin Employment Relations Commission provides for a Motion to Make Complaint More Definite and Certain to assist parties in the preparation of an answer to a complaint. However, Respondents filed an Answer on June 19, 1990 in the instant case at the same time they filed the aforesaid Motion to Make Complaint More Definite and Certain. In addition, Respondents' Motion was filed with the Commission on June 19, 1990, as noted above, well beyond the five day limit provided by the administrative rule. Finally, Thomas E. Repischak filed a Motion in opposition to Respondents' Motion for Dismissal as to Respondent Kenneth Murray on July 12, 1990 and a Motion in Opposition to Respondents' Motion for More Definite and Certain Answer on July 13, 1990. Accordingly, based on all of the foregoing, the Motion to Make Complaint More Definite and Certain is untimely filed and is properly denied.

Respondents also moved to dismiss the complaint as to Respondent Kenneth Murray. Section 111.70(3)(c) Stats., provides:

(c) It is a prohibited practice for any person to do or cause to be done on behalf of or in the interest of municipal employers or municipal employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by par. (a) or (b).

Since Complainant asserts that Respondent Kenneth Murray was the Attorney for Respondent Milwaukee Police Association when he asked the Association for legal representation regarding his recall to active duty from a duty disability retirement; and since Complainant alleges that Respondent Murray told him he was tied up in contract arbitration hearings and could not properly handle his case but that he (Complainant) should get his own attorney and "the cost of this would be covered by the Union due to (sic) fact that this was a Union matter"; and since Respondents admit that Complainant asked Respondent Murray for legal representation in the aforesaid matter but deny that Complainant was entitled to any legal representation from Respondent Association; and since Respondents also deny that Respondent Murray or anyone else told Complainant that he should get his own attorney to handle the matter, and the Association would pay for same because it was a Union matter; and since the aforesaid statutory provision provides that it is a prohibited practice for any person to do or cause to be done on behalf of or in the interest of municipal employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by Secs. 111.70(3)(a) or (b), Stats., it must be concluded that the complaint herein raises disputed issues of fact and law which can only be resolved at hearing. Respondents' Motion to Dismiss with respect to Respondent Kenneth Murray is therefore also denied.

Dated at Madison, Wisconsin this 18th day of July, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____

Dennis P. McGilligan, Examiner

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