

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

 :
 WISCONSIN PROFESSIONAL POLICE :
 ASSOCIATION/LAW ENFORCEMENT EMPLOYEE :
 RELATIONS DIVISION, :
 :
 Complainant, : Case 98
 : No. 47608 MP-2612
 vs. : Decision No. 27387-A
 :
 PORTAGE COUNTY (SHERIFF'S DEPARTMENT) :
 :
 Respondent. :
 :

ORDER DENYING MOTION TO DISMISS AND GRANTING MOTION TO MAKE THE COMPLAINT MORE DEFINITE AND CERTAIN

On June 18, 1992, the Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, hereafter Complainant, filed a complaint with the Wisconsin Employment Relations Commission alleging that Portage County (Sheriff's Department), hereafter Respondent, had committed prohibited practices within the meaning of Sec. 111.70, Stats. On September 11, 1992, the Commission appointed Coleen A. Burns, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Sec. 111.07(5), Stats. On October 13, 1992, Respondent filed an Answer to the complaint and a Motion to Dismiss the Complaint, or in the alternative, To Make the Complaint More Definite and Certain. The Examiner, being fully advised in the premises, makes and issues the following

ORDER

1. The Motion to Dismiss is hereby denied.
2. The Complainant shall amend its complaint to show clearly and concisely by a statement of facts what constitutes the "other actions" of the County, referenced in Paragraph Twelve of the Complaint, which it is alleging to have been in violation of Sec. 111.70(3)(a)7, Stats.
3. The Amendment shall be filed with the Examiner, with a copy of the same mailed to:

Mr. Gerald Lang
Personnel Director
Portage County
Portage County Courthouse
1516 Church Street
Stevens Point, WI 54481

on or before October 26, 1992.

Dated at Madison, Wisconsin this 16th day of October, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Coleen A. Burns, Examiner

PORTAGE COUNTY (SHERIFF'S DEPARTMENT)

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO DISMISS AND GRANTING MOTION TO MAKE THE COMPLAINT MORE DEFINITE AND CERTAIN

Wisconsin Administrative Code, Section ERB 12.02(2),(c), provides that a complaint must contain, 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 statute alleged to have been violated thereby."

In order to comply with the Commission's rules, the Examiner has granted the Respondent's Motion to Make the Complaint More Definite and Certain by requiring Complainant to amend its complaint to show clearly and concisely, by a statement of facts, what constitutes the "other actions" of the County, referenced in Paragraph Twelve of the Complaint, which it is alleging to have been in violation of Sec. 111.70(3)(a)7, Stats. The information sought by the Respondent will enable it to determine with specificity the facts constituting the alleged prohibited practice and to permit it to prepare a response to the charge.

The Examiner has denied Respondent's Motion to Dismiss on the grounds that it is premature, and because the complaint presents a contested case, 1/ requiring a full hearing on the pleadings. 2/ Respondent may reassert the Motion to Dismiss at the hearing.

Dated at Madison, Wisconsin this 16th day of October, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Coleen A. Burns, Examiner

1/ Wisconsin Statutes, Sec. 111.07(2)(a), Sec. 111.07(4), Sec. 227.

2/ Mutual Fed. Saving & Loan Assoc. v. Savings & Loan Adv. Comm.; (1968) 38 Wis.2d 381 State ex. rel. City of LaCrosse v. Rothwell, (1964) 25 Wis.2d 228, rehearing denied; Town of Ashwaubenon v. Public Service Commission, (1964) 22 Wis.2d 38, rehearing denied; State ex. rel. Ball v. McPhee, (1959) 6 Wis.2d 190; General Electric Co. v. Wisconsin Employment Relations Board, (1957) 3 Wis.2d 227.