

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARK J. BENZING,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case 54
	:	No. 50320 MP-2844
	:	Decision No. 28083-A
BLACKHAWK VOCATIONAL, TECHNICAL	:	
AND ADULT EDUCATION DISTRICT,	:	
	:	
Respondent.	:	

MARK J. BENZING,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case 56
	:	No. 50677 MP-2866
	:	Decision No. 28084-A
BLACKHAWK VOCATIONAL, TECHNICAL	:	
AND ADULT EDUCATION DISTRICT,	:	
	:	
Respondent.	:	

Appearances:

Mr. Mark J. Benzing, 2022 Dewey Avenue, Beloit, Wisconsin 53511, pro se.
Godfrey & Kahn, S.C., by Mr. Jon E. Anderson, 131 West Wilson St.,
Suite 202, P.O. Box 1110, Madison, Wisconsin 53701-1110

ORDER GRANTING MOTION TO MAKE CONSOLIDATED
COMPLAINTS MORE DEFINITE AND CERTAIN

On January 7, 1994 Complainant filed a complaint against Respondent in Case 54, No. 50320, MP-2844, later amended on March 2, 1994. On March 13, 1994, Complainant filed a complaint against Respondent in Case 56, No. 50677, MP-2866. On April 12 and 18, 1994, respectively, Respondent filed Motions to Make These Complaints More Definite and Certain and on April 18th Respondent also filed a Motion to Consolidate the captioned cases which Complainant opposed by his letter received on May 11, 1994. On April 14, 1994 the Commission appointed Sharon A. Gallagher, a member of its staff, to act as Examiner in Case 54, No. 50320, MP-2844. On June 7, 1994, Complainant filed a Second Amended Complaint in Case 54, No. 50320, MP-2844. On June 20, 1994, the Commission issued its Order Consolidating these cases. On June 28, 1994, the Commission issued its Order appointing Sharon A. Gallagher to act as Examiner in Case 56, No. 50677, MP-2866. On April 25, 1994, Complainant filed a written opposition to Respondent's Motion to Make the Complaints More Definite and Certain. The Examiner, being fully advised in the premises, makes and issues the following

ORDER

1. Complainant shall amend the Complaint in Case 54, No. 50320, MP-2844 to show clearly and concisely the basis for the Complainant's allegations that Complainant was ". . . subject to discrimination and blacklisting by . . .

No. 28083-A
No. 28084-A

Mr. Alan Ferguson and Mr. Jeff Amundson . . ." (Complaint filed January 7, 1994). Specifically, Complainant's amendment must include a clear and concise statement of facts which shows the time and place of all occurrences of particular acts allegedly committed by the specified College agents, who else was present and what happened, as well as the sections of the Statute violated thereby.

2. Complainant shall amend the complaint in Case 54, to include a clear and concise statement of the facts surrounding the "four specific occasions" listed in the Complaint (filed January 7, 1994). Complainant must also state that the filing fee accompanied the complaint in Case 54, No. 50320, MP-2844, if it did so.

3. In regard to the allegations of the First Amended Complaint, Complainant's Amendment to Make More Definite and Certain, ordered herein, must include a clear and concise statement of the facts surrounding the alleged contract violations of September 2, 1992 to January 8, 1993, November 5, 1992, March 16, 1993 and June 7, 1993 including the time, place, particular acts and people present, as well as which sections of the contract were violated (attaching copies of those sections involved) in each instance.

4. In regard to the allegations of the First Amended Complaint, Complainant's Amendment to Make More Definite and Certain, ordered herein, must include all specific facts regarding how and why Complainant believes Mr. Ferguson allegedly discriminated against and blacklisted Complainant, including the dates/times and places these acts allegedly occurred, what occurred and who else was present.

5. In regard to Case 56, No. 50677, MP-2866, Complainant shall amend that complaint to include a clear and concise statement of facts which show the particular acts engaged in by Mr. Amundson on each of the dates stated (paragraph 1) which Complainant believes constituted unfair labor practices, discrimination and/or blacklisting and what areas of the Statute were specifically violated by each act; that the Complainant must also include in a clear and concise statement of facts regarding Mr. Amundson's alleged actions which constituted violations of the labor agreement, the dates thereof and what sections of the law were violated in each instance as well as a clear and concise statement regarding why Amundson's actions caused Complainant to believe he was being discriminated against or that he had been blacklisted by Respondent.

6. Regarding the allegations of the Second Amended Complaint (filed June 7, 1994) in Case 54, No. 50320, MP-2844, Complainant shall state in his amended complaint the specific acts engaged in by Mr. Alan Ferguson on April 7, 1993 and June 7, 1993 and how these acts violated the collective bargaining agreement and/or why they amounted to blacklisting of Complainant. Complainant shall also attach copies of all provisions of the labor agreement he alleged were violated by the acts of Mr. Ferguson.

7. The Amendments to Make these Complaints More Definite and Certain shall be filed with the Examiner on or before July 25, 1994, with a copy of the same mailed to:

Mr. Jon Anderson
Godfrey & Kahn, S.C.
Attorneys at Law
131 West Wilson St., Suite 202
P.O. Box 1110
Madison, WI 53701-1110

Dated at Madison, Wisconsin this 15th day of July, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Sharon A. Gallagher, Examiner

BLACKHAWK VOCATIONAL, TECHNICAL & ADULT EDUCATION DISTRICT

MEMORANDUM ACCOMPANYING ORDER GRANTING MOTION
TO MAKE COMPLAINTS 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."

The Examiner has granted the Respondent's Motion Make these Complaints More Definite and Certain in order to comply with the Commission's rules. The information sought by the Respondent will enable it to determine with specificity the facts constituting the alleged prohibited practices and to permit it to prepare a response to the charges.

Dated at Madison, Wisconsin this 15th day of July, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Sharon A. Gallagher /s/
Sharon A. Gallagher, Examiner