

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WESTFIELD EDUCATION ASSOCIATION,

Complainant,

and

BRUCE KUEHMICHEL, a party in interest,

vs.

WESTFIELD SCHOOL DISTRICT,

Respondent.

Case 17

No. 51386 MP-2923

Decision No. 28533-A

ORDER DENYING MOTION TO MAKE  
COMPLAINT MORE DEFINITE AND CERTAIN

Westfield Education Association, herein Complainant, on August 5, 1994, filed a complaint with the Wisconsin Employment Relations Commission in which it alleged the Westfield School District, herein District, had committed prohibited practices within the meaning of Secs. 111.70(3)(a)1 and 4 of the Municipal Employment Relations Act. On September 25, 1995, the Commission appointed Lionel L. Crowley, a member of its staff, to act as Examiner, to make and issue Findings of Fact, Conclusions of Law and Order pursuant to Sec. 111.07(5), Stats. On August 17, 1994, the District filed a Motion that Complainant be ordered to make the complaint more definite and certain. The Examiner, having considered the matter, makes and issues the following

ORDER

1. The Motion to order the Complainant to make its complaint more definite and certain is hereby denied.

No. 28533-A

2. The time for the District to file its answer is hereby extended to October 17, 1995.

Dated at Madison, Wisconsin, this 4th day of October, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley /s/  
Lionel L. Crowley, Examiner

WESTFIELD SCHOOL DISTRICT

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

In its memorandum in support of its Motion to Make More Definite and Certain, the District asserts the following:

. . . The allegations of the Union's complaint concerning violation of the bargaining agreement's layoff clause are so indefinite as to hamper the District's ability to investigate the charges and formulate an answer. Fundamental fairness requires that a respondent be given notice of the nature of its offense before being called upon to defend itself.

. . .

. . . The only facts concerning the layoff, however, are set forth in paragraph 6. Specifically, the Union alleges a layoff date of 20 April 1994 and further alleges administrators communicated, prior to Kuehmichel's layoff, about possible grounds for nonrenewal of Kuehmichel.

All of these alleged facts are entirely consistent with the layoff clause as set forth by the Union. That clause expressly lists May 1 as the deadline for notifying employes of layoff, for example, and places no restrictions on administrative communication. The District thus has not been given a clear and concise statement concerning the time and place of occurrence of any particular acts that violated the layoff provision. . . .

On August 22, 1994, the Complainant responded to said Motion as follows:

. . . If counsel is unaware of the nature of the Association's claims, he can quickly find out by simply talking to his own clients. In addition, the Complaint makes the general nature of the dispute quite clear. Bruce Kuehmichel should not have been laid off. Instead, the District gerrymandered Mr. Kuehmichel's layoff because it had

performance concerns about him--performance concerns which it knew it could not substantiate. . . .

The complaint here sufficiently comports with the basic pleading requirements of Wisconsin Administrative Code, ERC 12.02(2)(c). The complaint puts the District on sufficient notice as to what is the gravamen of Complainant's case. The Motion really seeks an explanation of the merits of the case as to how the layoff violates the status quo which is appropriate for the hearing and is beyond the basic elements that need to be alleged. Thus, the Motion has been denied.

Dated at Madison, Wisconsin, this 4th day of October, 1995.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Lionel L. Crowley /s/  
Lionel L. Crowley, Examiner