

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OCONTO COUNTY PROFESSIONALS,  
LOCAL 778-D, AFSCME, AFL-CIO,

Complainant,

vs.

OCONTO COUNTY,

Respondent.

Case 136

No. 53848 MP-3140

Decision No. 28758-A

ORDER GRANTING MOTION TO MAKE  
THE COMPLAINT MORE DEFINITE AND CERTAIN

On February 15, 1996, the Oconto County Professionals, Local 778-D, AFSCME, AFL-CIO, hereinafter Complainant, filed a complaint with the Wisconsin Employment Relations Commission alleging that Oconto County, hereinafter Respondent, had committed prohibited practices within the meaning of Sec. 111.70, Stats. On June 13, 1996, the Commission appointed Dennis P. McGilligan, 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 Secs. 111.70(4)(a) and 111.07, Stats. On June 20, 1996, Respondent filed a Motion to Make the Complaint More Definite and Certain. On June 28, 1996, the Complainant filed arguments opposing said Motion; on July 2, 1996, Respondent submitted a response to the Complainant's arguments.

The Examiner, being fully advised in the premises, makes and issues the following

ORDER

1. The Motion to Make the Complaint More Definite and Certain is hereby granted.
2. The Complainant shall amend its complaint to show clearly and concisely by a statement of facts what constitutes the actions of Ms. Becky Hobbs involving her Union activities and the exercise of her collective bargaining rights including specific times, locations, names of County representatives or agents in dispute during Hobbs' alleged Union activities which caused the County to eliminate the Chemical Dependency Counselor position she occupied and by identifying the specific occasions during the past twelve (12) months or at any other material time where "supervisors within the County's Department of Human Services have threatened retaliation against

No. 28758-A

bargaining unit employes for exercising their collective bargaining rights", all which it is alleging to have been in violation of Secs. 111.70(3)(a)1, 3 and 5, Stats.

3. The Amendment shall be filed on or before July 12, 1996 with the Examiner, with a copy of the same mailed directly to:

Mr. Dennis Rader  
Godfrey & Kahn, S.C.  
Attorneys at Law  
333 Main Street, Suite 600  
P. O. Box 13067  
Green Bay, WI 54307-3067

on the same date.

4. The date for filing an answer to the Amended Complaint is hereby extended to July 19, 1996.

Dated at Madison, Wisconsin this 3rd day of July, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
Dennis P. McGilligan, Examiner

OCONTO COUNTY (PROFESSIONALS)

MEMORANDUM ACCOMPANYING ORDER 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 actions of Ms. Becky Hobbs involving her Union activities and the exercise of her collective bargaining rights which caused the County to eliminate her position and by identifying specific occasions during the past twelve (12) months or any other time material herein where "supervisors within the County's Department of Human Services have threatened retaliation against bargaining unit employes for exercising their collective bargaining rights.

By letter dated June 28, 1996, Complainant submitted arguments in opposition to the aforesaid Motion. The Complainant argues primarily that the Respondent's request for information "goes way beyond what would be reasonable as it concerns any clarification of the Complaint," and improperly gets into the area of discovery. The Complainant adds that it would be an unfair burden on the Union to provide this information since, in the opinion of the Complainant, the Respondent and its representatives are familiar with the facts giving rise to the complaint.

The Respondent, in its written response dated July 2, 1996, argues that the Complainant is engaging in "trial by ambush" and "trial by combat" which it states is against public policy. The Respondent also argues that the rules of the Commission as set out in the Wisconsin Administrative Code provide relief to a respondent when a complaint is vague and uncertain citing several Commission decisions in support thereof.

Contrary to the Complainant's assertions, and consistent with the requirements of Section ERB 12.02(2),(c) of the Wisconsin Administrative Code, the Examiner finds that 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. Therefore, the Complainant is ordered to provide said information.

Dated at Madison, Wisconsin this 3rd day of July, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
Dennis P. McGilligan, Examiner

