

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

VALERIE BURD, Complainant,

vs.

OCONTO FALLS SCHOOL DISTRICT, Respondent.

Case ID: 283.0001

Case Type: COMP_MP

DECISION NO. 38967-A

Appearances:

Joey Roeth, Legal Counsel, Wisconsin Education Association Council, 33 Nob Hill, Madison, Wisconsin, appearing on behalf of Valerie Burd.

Geoffrey A. Lacy, Attorney, Strang, Patteson, Renning, Lewis & Lacy, 205 Doty Street, Suite 201, Green Bay, Wisconsin, appearing on behalf of the Oconto Falls School District.

ORDER DENYING MOTION TO DISMISS

On June 29, 2021, Valerie Burd filed a complaint with the Wisconsin Employment Relations Commission alleging that while she was an employee of the Oconto Falls School District, the District retaliated against her for engaging in lawful concerted activity and thereby violated Wis. Stat. § 111.70 (3)(a)1. That same day the Commission appointed the undersigned as the Examiner in the matter.

On September 9, 2021, the District filed a motion to dismiss the complaint contending that the complaint failed to plead a cause of action as to which the Commission has jurisdiction. On September 22, 2021, Burd filed a response to the motion.

Wisconsin Admin. Code § ERC 12.04 (2)(f) states:

A motion to dismiss shall not be granted before an evidentiary hearing has been conducted except where the pleadings, viewed in the light most favorable to the complainant, permit no interpretation of the facts alleged that would make dismissal inappropriate.

Applying this standard to the District's motion, the motion is denied. As is evident from the first sentence of this Order, the complaint alleges facts that, if proven, would violate Wis. Stat. § 111.70 (3)(a)1.

NOW, THEREFORE, it is:

ORDERED

The motion to dismiss is denied.

Issued at the City of Madison, Wisconsin, this 22nd day of September, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Examiner

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