

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: )  
DENNIS REDMON ) CASE 22374-E-09-3454  
Involving certain employees of: ) DECISION 10374 - PSRA  
STATE - REVENUE ) ORDER OF DISMISSAL  
\_\_\_\_\_ )

On April 1, 2009, Dennis Redmon filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking to decertify the Washington Federation of State Employees (WFSE) as exclusive bargaining representative of the non-supervisory employees at Washington State Department of Revenue.

On April 3, 2009, a routine letter was mailed to the employer requesting a list of employees. On April 9, 2009, the employer responded to that request by providing a list of employees. Review of the showing of interest indicated the petitioner lacked the thirty percent as required under Commission rules. A deficiency notice was issued on April 15, 2009, pointing out that defect. The petitioner was given until April 27, 2009, to show good cause why the petition should not be dismissed.

On April 27, 2009, the petitioner filed a response requesting that the blocking charge rule be invoked and processing of the representation case be suspended pending the outcome the related unfair labor practice cases.<sup>1</sup>

---

<sup>1</sup> Case 22364-U-09-5705 and 22367-U-09-5706.

Discussion

WAC 391-25-110 requires that a petitioner provide an adequate showing of interest before the Commission conducts a representation election.

WAC 391-25-110 SUPPORTING EVIDENCE -- SHOWING OF INTEREST CONFIDENTIAL. (1) A petition filed by employees or an employee organization shall be accompanied by a showing of interest *indicating that the petitioner has the support of thirty percent or more of the employees in the bargaining unit* which the petitioner claims to be appropriate. The showing of interest shall be furnished under the same timeliness standards applicable to the petition, and shall consist of original or legible copies of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. . . .

(emphasis added).

A properly filed representation petition is considered valid until Commission staff examine the showing of interest against the list of employees provided by the employer. The employer's list indicated there were 826 employees and review of the showing of interest against that list disclosed that the petitioner was below the required thirty percent. The showing of interest requirement is mandatory, not discretionary.

In many instances where a party asserts an unfair labor practice potentially affects the outcome of a representation election, the Commission would invoke WAC 391-25-370(1) and suspend the outcome of the representation election pending the outcome of the unfair labor practice case. However, WAC 391-25-370(3) requires that the alleged unfair labor practice needs to affect the outcome of a representation election. Without a thirty percent showing of interest, a representation election would not occur. By limiting

the remedy in cases that assert the petitioning party was prevented from collecting its showing of interest to those unfair labor practice provisions, the Commission cannot assume that a representation election would ever occur. Dismissal of the representation petition does not prevent a remedial order in the unfair labor practice case to redress the lack of sufficiency of the showing of interest. *State - Labor and Industries*, Decision 9052 (PSRA, 2005).

Once demonstrative evidence exists that the petition is not supported by the requisite showing of interest, the petition shall be dismissed. If a petitioner asserts that it was prevented from collecting its showing of interest by some action of another party, that party should file an unfair labor practice complaint, and if a violation is found, the appropriate remedy will come from the unfair labor practice provisions. *State - Labor and Industries*, Decision 9052 (PSRA, 2005).

NOW THEREFORE, it is

ORDERED

The petition for investigation of a question concerning representation filed in the above-entitled matter is hereby, DISMISSED for insufficient showing of interest.

Issued at Olympia, Washington this 5<sup>th</sup> day of May, 2009.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-25-660.