

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)
JOY JANSSON) CASE 14211-E-98-2376
Involving certain employees of:) DECISION 7357-A - PECB
KING COUNTY) DECISION OF COMMISSION
_____)

This case comes before the Commission on a notice of appeal filed by Joy Jansson, seeking to overturn an order of dismissal issued by Executive Director Marvin L. Schurke.¹ We affirm the dismissal of the petition.

PROCEDURAL BACKGROUND

On October 27, 1998, Joy Jansson (petitioner) filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission, seeking decertification of Public Safety Employees, Local 519 (union), as the exclusive bargaining representative of certain employees of King County (employer) formerly in a "jail aide" classification.

A hearing was held in November of 1999. The Executive Director ruled that the petitioner was seeking an inappropriate bargaining unit and dismissed the petition as not raising a question concerning representation.

¹ King County, Decision 7357 (PECB, 2001).

POSITIONS OF THE PARTIES

The petitioner asserts that the jail aides desire and should be allowed to sever all ties with the union.

Rather than submitting briefs on this appeal, the employer and union have chosen to stand on their post-hearing briefs, wherein they argued that the petition should be dismissed as simultaneously seeking a severance and a decertification.

DISCUSSIONAppellate ProcedureNotice of Appeal -

The notice of appeal in this case is insufficiently detailed. WAC 391-25-660(3) states:

A notice of appeal . . . shall identify , in separate numbered paragraphs, the specific rulings, findings of fact, conclusions of law, or orders claimed to be in error.

(emphasis added).

A party filing an appeal must put the Commission and opposing party (or parties) on notice of the subjects it desires to advance. *Clover Park School District*, Decision 7073-A (EDUC, 2001), *aff'd*, WPERR CD-___ (Thurston County Superior Court, 2002); *City of Kirkland*, Decision 6377-A (PECB, 1998). The Commission expects the parties to closely monitor their compliance with the rules. *Clover Park School District*, *supra*. If a party fails to do so, the Commission has an obligation to apply the rules in fairness to the

other party. *Clover Park School District, supra; City of Kirkland, supra.* Where the notice of appeal does not supply sufficient information on which to determine a specific basis for an appeal, the Commission need not reach the substantive issues of the case. *Clover Park School District, supra* (citing *City of Kirkland, supra*).²

In this case, the Executive Director's order dismissing the petition filed by Jansson included specific findings of fact and conclusions of law. Jansson's notice of appeal did not assign error to any specific ruling, finding, conclusion or order, rather it re-states Jansson's earlier arguments for a "severance-decertification." Thus, the notice of appeal is insufficiently detailed. We find no evidence of extenuating circumstances that would cause us to reach the substantive issues of this case, where the Executive Director already addressed the merits of the appellant's cause of action. See *Auburn School District (PSE of Washington), supra; Bethel School District, supra.*

Same Standards Applied to Pro Se Appellants -

Our rules do not require that parties appearing before the Commission be represented by legal counsel, but an individual proceeds at their own peril. *Bethel School District, supra* (citing *King County, Decision 6767-A (PECB, 1999)*). The Commission must consider the rights of other parties. *Bethel School District, supra* (citing *King County, Decision 5595-A (PECB, 1996)*).

² See *Auburn School District (PSE of Washington), Decision 6939-A (PECB, 2000)* (holding that Commission would review whole record, where there were extenuating circumstances, and finding that there was no cause of action); *Bethel School District, Decision 6847-A (PECB, 2000)* (having reviewed whole record Commission found that there was nothing within the four corners of the complaint or amended complaint to support a cause of action).

Waiver -

The Commission has authority to waive Commission rules, when a party is not prejudiced. The subject is addressed in Chapter 391-08 WAC, which sets forth general rules of practice and the procedures applicable to all types of proceedings before the Commission. WAC 391-08-003; *Clover Park School District, supra*. However, the exercise of that discretion is not automatic and should be based on whether such waiver effectuates the purposes and provisions of the applicable collective bargaining statutes. *Clover Park School District, supra*.

The collective bargaining statutes administered by the Commission embody a legislative policy requiring employers, employees and unions to communicate to one another. *Clover Park School District, supra*; *Mason County, Decision 3108-B (PECB, 1991)*; RCW 41.56.030(4); RCW 41.56.100; RCW 41.58.040. We do not find sufficient justification for a waiver because such a waiver would not further the statutory policies of communication and would be contrary to agency precedent.

Conclusion

To not dismiss this appeal would undermine WAC 391-25-660(3), which requires specificity, and cause it to serve no purpose. Furthermore, the agency's policy requiring parties to communicate with one another would be undermined, because the responding party would have to guess about which specific rulings, findings, conclusions, or orders were claimed to be in error.

NOW THEREFORE, it is

ORDERED

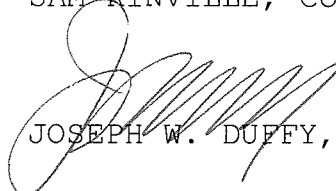
1. The petitioner's notice of appeal is DISMISSED on procedural grounds.
2. The findings of fact, conclusions of law, and order of dismissal issued by Executive Director Marvin L. Schurke in the above-captioned shall stand, under WAC 391-25-390(4) as the final order of the agency on the merits of the case.

Issued at Olympia, Washington, on the 14th day of May, 2002.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

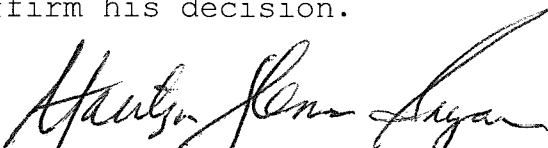

MARILYN GLENN SAYAN, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner

CONCURRING OPINION

I respectfully concur with the majority opinion that it is not necessary for the Commission to reach the substantive issues of a case where as here the notice of appeal did not supply sufficient information by which to determine a specific basis for an appeal. Nevertheless, I have chosen to review the whole record and find after that review that I agree with the Executive Director on the merits and thus would affirm his decision.


MARILYN GLENN SAYAN, Chairperson