

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LOCAL NO. 404, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,	)	
	)	
Complainant,	)	CASE NO. U-76-45 (495)
vs.	)	
CITY OF WALLA WALLA,	)	ORDER OF DISMISSAL
	)	
Respondent.	)	DECISION NO. 104 PECB

Local No. 404, International Association of Fire Fighters, having on August 11, 1976, filed a charge with the Washington Public Employment Relations Commission alleging that the City of Walla Walla had engaged in unfair labor practices within the meaning of Chapter 41.56 RCW by refusing to proceed to arbitration on a grievance arising under a collective bargaining agreement existing between the parties; and the Executive Director having reviewed the Charge Against Employer and accompanying documents filed by the Complainant, and being satisfied that the facts alleged do not, as a matter of law, constitute a violation of RCW 41.56.140;

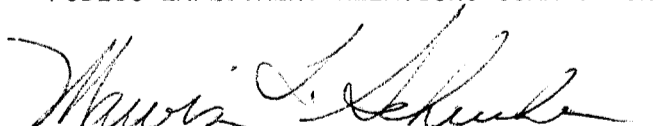
NOW, THEREFORE, It is

ORDERED

That the Charge Against Employer filed to initiate the above-entitled matter be, and the same hereby is, dismissed for lack of jurisdiction.

DATED at Olympia, Washington, this 2nd day of September, 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LOCAL NO. 404, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,	)	
	)	
Complainant,	)	CASE NO. U-76-45
	)	
vs.	)	
	)	
CITY OF WALLA WALLA,	)	MEMORANDUM ACCOMPANYING
	)	ORDER OF DISMISSAL
Respondent.	)	

---

On July 16, 1976, the Washington Public Employment Relations Commission adopted revisions to its procedural rules under which an initial review of unfair labor practice charges for sufficiency is made by the Executive Director of the Commission. The instant charge was filed on August 11, 1976. In relevant part, the Charge document states:

"The . . . employer has engaged in and is engaging in unfair labor practices within the meaning of Chapter 41.56 RCW. Basis of the Charge . . .

'On July 26th it was requested that two members of Local #404 IAFF be allotted one shift off each to attend the Wash. St. Council of Fire Fighters Convention (sic) in Bellingham, Wash. Aug. 8-10 1976. AS PROVIDED FOR IN THE 1976 CONTRACT. However on July 28, 1976 the requests were denied by City Manager Larry Smith, acting as agent for the City of Walla Walla. (Emphasis contained in original).

Local #404 members denied their rights as provided in the 1976 Labor contract with the City of Walla Walla and Local #404 IAFF are as follows:

Donald C. Gillis and Robert R. Wheeler  
(rank, address and telephone omitted here)'

By these acts the above-named employer has interfered with, restrained and coerced employees in the exercise of the rights guaranteed by Chapter 41.56 RCW."

The accompanying documents include a copy of the 1976 agreement between the City of Walla Walla and the Union. That agreement contains a grievance procedure which terminates in final and binding arbitration. Although no specific citation is made in these documents to a provision of the contract claimed to have been violated, the undersigned notes that Article 19 - Leave of Absence contains the following language pertinent hereto:

"Up to two (2) elected Union delegates but no more than one per shift shall be allowed to attend either the Annual Conference or Seminar, without loss of pay, provided that the Administration of the Fire Department is given one week's notice."

A second document is an undated "Travel and/or Meeting Request" filed by Donald Gillis requesting absence on August 10 - 11 to attend the WSCFF Convention. A third document is a copy of an interoffice communication dated July 28, 1976 from the City Manager to the Acting Chief of the Fire Department denying the conference leave request for Wheeler and Gillis for reasons of the costs to be incurred by the City.

From a review of the foregoing documents, it is evident that the Union is attempting to enforce its collective bargaining agreement, and particularly the provisions contained therein which provide for leave of absence for Union officials for certain purposes. Except for the pre-printed language of the Charge Against Employer form on which the instant unfair labor practice case was filed, there is no reference to or claim of a violation of statutory rights of the Union or of the individuals involved. Furthermore, none of the documents contain any reference to evidence which would support an allegation that the employer has engaged in conduct prohibited by the interference, domination or discrimination proscriptions of RCW 41.56.140. RCW 41.56.220 provides for a statutory leave of absence for union officials to represent their bargaining units at the State legislature, but nothing is found in Chapter 41.56 RCW, and nothing is known of in the common law, which would provide the Complainant Union and the affected employees with the particular rights contained in Article 19 of their collective bargaining agreement. The parties to a collective bargaining agreement have a statutory duty to confer and endeavor to resolve disputes arising as to the application of their agreement.<sup>1/</sup> These parties have negotiated specific procedures for the resolution of disputes concerning the application of their collective bargaining agreement, and those procedures terminate in final and binding arbitration. Arbitration of such disputes is a process preferred by both federal and State labor policy.<sup>2/</sup>

In enacting the Taft-Hartley Act of 1947, Congress had before it the idea of making violation of a collective bargaining agreement an unfair labor practice justiciable before the National Labor Relations Board.<sup>3/</sup> Congress rejected that idea, making violations of a collective bargaining agreement

-----  
<sup>1/</sup> RCW 41.58.040(2)

<sup>2/</sup> See §203(d) of the Labor-Management Relations Act of 1947, as amended; RCW 41.58.020(4)

<sup>3/</sup> See BNA Labor Relations Expediter, "Collective Bargaining Contracts", Sec. 32.

justiciable in the courts under Section 301 of the Taft-Hartley Act and through the arbitration process referenced in Section 203(d) of that Act. Our legislature has picked up on the endorsement of arbitration as a preferable procedure, and has not delegated to the Commission authority to determine violation of contract allegations as unfair labor practices under Chapter 41.56 RCW. The undersigned therefore concludes that the Public Employment Relations Commission lacks jurisdiction to hear and decide the instant matter and that these violation of contract allegations should be litigated, if at all, under the grievance and arbitration machinery provided in the collective bargaining agreement between the parties.

DATED at Olympia, Washington, this 2nd day of September, 1976.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director