

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PORT OF SEATTLE,	)	
	)	
Employer.	)	
-----	)	
ROBERT MILLER,	)	CASE 14100-U-98-3492
	)	
Complainant,	)	DECISION 6598 - PECB
	)	
vs.	)	
	)	
INTERNATIONAL LONGSHOREMEN'S AND	)	
WAREHOUSEMEN'S UNION, LOCAL 9,	)	
	)	ORDER OF DISMISSAL
Respondent.	)	
	)	
_____	)	

On August 26, 1998, Robert Miller filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC.<sup>1</sup> An amended complaint was filed on September 25, 1998. Miller alleged that International Longshoremen's and Warehousemen's Union, Local 9, committed unfair labor practices by denying him eligibility to continue "financial core member" status.

The complaint was reviewed by the Executive Director for the purpose of making a preliminary ruling under WAC 39145-110.<sup>2</sup> A

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<sup>1</sup> A companion case docketed for charges made by Miller's spouse is the subject of a separate order issued today.

<sup>2</sup> At this stage of the proceedings, all of the facts alleged in a complaint are assumed to be true and provable. The question at hand is whether the complaint, as filed, states a claim for relief available through unfair labor practice proceedings before the Commission.

deficiency notice was issued on October 14, 1998, indicating that the complaints failed to state a cause of action for unfair labor practice proceedings before the Commission. Miller was given a period of 30 days to file and serve an amended complaint which stated a cause of action, or face dismissal of the case. Nothing further has been received from the complainant.

### DISCUSSION

The complainant is identified as a an employee of the Port of Seattle,<sup>3</sup> and as a member of a bargaining unit represented by Local 9. As such, he is subject to obligations under union security provisions of a contract between the employer and Local 9. This controversy concerns Miller's assertion of rights under federal court decisions such as Abood v. Detroit Board of Education, 431 U.S. 209 (1977) and Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986).

A problem arises as to the complainant's choice of forum. The Supreme Court of the State of Washington has taken a very narrow view as to the jurisdiction of the Public Employment Relations Commission in union security matters. In International Association of Fire Fighters, Local 2916 v. PERC, 128 Wn.2d 375 (1995), the Supreme Court ruled that the Commission has no jurisdiction to enforce the federal court rulings based on the United States Constitution.

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<sup>3</sup> The name of the Port of Seattle appears on the docket records and document captions for this case, even though it is neither a complainant nor a respondent. Each case processed by the Commission must arise out of an employment relationship with an employer that is subject to the jurisdiction of the agency.

The deficiency notice further pointed out that, although the box on the complaint form to allege "union discrimination for filing charges" was marked, none of the facts alleged in the accompanying statement of facts supported a claim under RCW 41.46.150(3). The reference to "filing charges" is statutorily limited to complaints filed with the Public Employment Relations Commission, and is not a general reference that would include such filings as grievances with an employer, or a union, or filing claims with other governmental agencies.

NOW, THEREFORE it is

ORDERED

The complaint charging unfair labor practices filed in this matter is DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, this 8<sup>th</sup> day of February, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed under WAC 391-45-350.