

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS UNION, LOCAL 378,)	
)	
Complainant,)	CASE 14505-U-99-3606
)	
vs.)	DECISION 6749 - PECB
)	
TOWN OF RAINIER,)	
)	
Respondent.)	PRELIMINARY RULING AND
)	PARTIAL DISMISSAL
)	
)	

Owen Lynch, Secretary-Treasurer, appeared for the union.

Craig Hanson, Attorney at Law, appeared for the employer.

On April 5, 1999, Teamsters Union, Local 378 (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Town of Rainier (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice was issued on May 11, 1999. While further proceedings before the Commission were deemed to be warranted as to certain allegations, three other allegations fell short of stating any cause of action. The union was given a period of 14 days to file an amended complaint, or face dismissal of the latter claims.

An amended complaint filed on May 24, 1999, under WAC 391-45-070 is now before the Executive Director for processing under WAC 391-45-

¹ At that stage of the proceedings, all facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Commission.

110. While causes of action are now found to exist with regard to two of the allegations earlier found to be defective, one allegation still fails to state a cause of action and is dismissed.

DISCUSSION

This controversy concerns a wall-to-wall bargaining unit consisting of nine employees. The union has been exclusive bargaining representative of that bargaining unit since August 4, 1998.²

The union's original complaint stated causes of action with regard to the following allegations:

- i. Employer refusal to bargain, by insisting to impasse on language that alters the description of the bargaining unit from that which was certified by the Commission;
- ii. Employer refusal to bargain, by making a regressive proposal in regard to wages; and
- iii. Employer refusal to bargain, by skimming bargaining unit work to a reserve officer volunteer.

With the information supplied in the amendment, the complaint also states a cause of action with respect to allegations of:

- iv. Employer refusal to bargain, by making a regressive proposal in regard to the contract preamble; and

² Notice is taken of the Commission's docket records. Case 13997-E-98-2344 was a representation petition filed on June 26, 1998. A cross-check was conducted and the union was certified as exclusive bargaining representative in City of Rainier, Decision 6380 (PECB, 1998). In addition to the above-captioned matter, three other unfair labor practice cases have been filed since the certification.

- v. Employer refusal to bargain, by making a regressive proposal regarding employee discipline.

Those allegations will be the subject of further proceedings under Chapter 391-45 WAC.

The remaining allegation concerns the grievance procedure. The union claims that the employer's proposal is inapposite to bargaining units regulated by Chapter 41.56 RCW. The documentation submitted by the union shows that the employer made a proposal which would eliminate certain of its actions, including discharge, from review through the grievance arbitration procedure. While some of the terminology used suggests that the employer's proposal has been adapted from another industrial setting, close review of the document discloses handwritten modifications which make it applicable to a municipality. With those modifications, nothing in the employer's proposal is, on its face, illegal.

NOW, THEREFORE, it is

ORDERED

1. The allegations of the complaint and amended complaint in this matter concerning the employer's proposal regarding a grievance procedure are DISMISSED for failure to state a cause of action.
2. Except as set forth in paragraph 1 of this order, and assuming that all of the facts alleged are true and provable, the other allegations of the complaint and amended complaint described above by paragraphs i. through v. are found to state causes of action for further proceedings under Chapter 391-45 WAC.

- a. PLEASE TAKE NOTICE THAT, the person or organization charged with an unfair labor practice in this matter (the "respondent") shall:

File and serve its answer to the complaint within 21 days following the date of this letter.

An answer filed by a respondent shall:

(1) Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial; and

(2) Assert any affirmative defenses that are claimed to exist in the matter.

- b. The original answer and one copy shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal representative of the person or organization that filed the complaint.
- c. Except for good cause shown, a failure to file an answer within the time specified, or the failure to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.
- d. Katrina I. Boedecker of the Commission staff has been designated as Examiner to conduct further proceedings in the matter pursuant to Chapter 391-45 WAC. The Examiner will issue a notice of hearing, and any party desiring a change of hearing dates must comply with the procedure

set forth in WAC 391-08-180, including making contact to determine the position of the other party prior to presenting the request to the Examiner.

Issued at Olympia, Washington, on the 20th day of July, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order will be the final order of the agency on those matters unless a notice of appeal is filed with the Commission under WAC 391-45-350.