

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY FIRE DISTRICT 43,)	
)	
Complainant,)	CASE 14393-U-99-3566
)	
vs.)	DECISION 6730 - PECB
)	
IAFF, LOCAL 3062,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	
)	

The complaint charging unfair labor practices was filed in the above-captioned matter on February 12, 1999. King County Fire District 43 (employer) alleged that International Association of Fire Fighters, Local 3062 (union) had violated RCW 41.56.150(4), by withdrawing from an agreement to use a third-party testing agency for purposes of implementing "return to duty" provisions found in section 16.9 of the parties' collective bargaining agreement. The complaint indicated that a grievance was being processed by the parties on this particular dispute.

The complaint was considered by the Executive Director for the purpose of making a preliminary ruling under WAC 391-45-110.¹ A deficiency notice issued on March 24, 1999, pointed out problems with the complaint and gave the employer a 14-day period in which to amend the complaint or face dismissal. The employer filed a

¹ At this stage of the proceedings, all of the 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 Public Employment Relations Commission.

letter in response to the deficiency notice on April 14, 1999, and the case is again before the Executive Director for processing under WAC 391-45-110.

No "Violation of Contract" Jurisdiction

The deficiency notice pointed out the long-established principle that the Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). A collective bargaining agreement attached to the original complaint was signed by the parties on July 9, 1998, and review of that document indicated that it contains "Return to Duty" provisions at section 16.9, describing various procedures for returning employees to work after a disability. The employer's letter in response to the deficiency notice admits that the parties' agreement contains specific language concerning return to work provisions. Any violation of the parties' agreement must be pursued through the grievance and arbitration machinery of that agreement.

Statute of Limitations Problem

The original complaint described various events during June of 1998, leading up to the signing of the parties' collective bargaining agreement on July 9, 1998. The employer's letter in response to the deficiency notice alleges that the union engaged in bad faith bargaining during this time period, and also raises an additional deficiency. The Commission is governed by the following provisions of RCW 41.56.160(1):

The commission is empowered and directed to prevent any unfair labor practice and to issue

appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. ...

In this case, the complaint filed on February 12, 1999, can be considered timely only as to actions by the union on or after August 12, 1998. Events complained of prior to August 12, 1998, cannot be remedied in this case.

NOW THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, this 2nd day of July, 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 with the Commission under WAC 391-45-350.