

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF)	
COUNTY AND CITY EMPLOYEES,)	
)	
Complainant,)	CASE 14582-U-99-3646
)	
vs.)	DECISION 6800 - PECB
)	
LEWIS COUNTY,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

On May 18, 1999, the Washington State Council of County and City Employees (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Lewis County (employer) as respondent. A deficiency notice issued on July 8, 1999, under WAC 395-45-110,¹ gave the union a period of 14 days in which to file and serve an amended complaint which stated a cause of action, or face dismissal.

The case is again before the Executive Director under WAC 391-45-110, on the basis of the materials filed on July 15, 1999. The complaint, as amended, still does not state a cause of action, and must be dismissed.

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.

DISCUSSION

The original complaint alleged that the employer excluded local union officers employed in the Public Works Department from a labor-management meeting in the Community Services Department. That is alleged to have occurred after the employer restructured its departments. The obligation to accept alleged facts as true and provable does not require the Executive Director to ignore contradictions between allegations and supporting documents. In this case, the collective bargaining agreement attached as an exhibit to the complaint both establishes the labor-management committee process and defines the labor composition of committees to consist of no more than one union officer and one member of the affected work group.

The amended complaint alleges that the employer allowed all local union officers to attend labor-management committee meetings for the preceding 10 years. Accompanying the amended complaint was an excerpt of an article written by a labor arbitrator, regarding past practice. None of that changes the fundamental fact that the union is seeking to enforce a contractual committee process. Even if the employer's current interpretation deviates from past practice or interpretation of that contract, 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). The union would need to pursue its claim through the grievance and arbitration machinery established within the contract, or through the courts. In accord with established Commission precedent, the alleged deviation from past practice or

interpretation of the collective bargaining agreement cannot be remedied through statutory proceedings.

Attached to the amended complaint was a copy of a May 24, 1999 letter from the employer's attorney, in which the employer offered to meet with the union's staff representative and all local union officers regarding the manner in which labor-management meetings would be conducted. The employer's willingness to meet with any and all representatives put forth by the union for discussion of the committee process and the composition of the committees does not vest the Commission with authority in this matter. Rather, the employer's letter may only evidence that it is prepared to fulfill its statutory duty to negotiate about the contract provisions.


NOW, THEREFORE, it is

ORDERED

The complaint in the above-captioned matter is DISMISSED as failing to state a cause of action.

Issued at Olympia, Washington, on the 23rd day of August, 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.