

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WSCCCE, LOCAL 874,)	
)	
Complainant,)	CASE 15523-U-00-3926
)	
vs.)	DECISION 7314 - PECB
)	
FRANKLIN COUNTY,)	PARTIAL DISMISSAL AND
)	ORDER FOR FURTHER
Respondent.)	PROCEEDINGS
)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by WSCCCE, Local 874 (union) on December 11, 2000. The complaint alleged that Franklin County (employer) interfered with employee rights in violation of RCW 41.56.140(1), dominated or assisted the union in violation of RCW 41.56.140(2), and refused to bargain in violation of RCW 41.56.140(4), by breach of its good faith bargaining obligations in delaying to schedule dates for negotiation meetings, canceling meetings, and failing to present a contract proposal.

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on February 1, 2001, indicating that it was not

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.

possible to conclude that a cause of action existed for the allegations of employer domination or assistance of union in violation of RCW 41.56.140(2). The deficiency notice stated that none of the facts alleged in the complaint suggest that the employer has involved itself in the internal affairs or finances of the union, or that the employer has attempted to create, fund, or control a "company union". See, *City of Anacortes*, Decision 6863 (PECB, 1999).

The deficiency notice indicated that the interference and refusal to bargain allegations of the complaint under RCW 41.56.140(1) and (4) appear to state a cause of action, and will be the subject of a Preliminary Ruling after the union has an opportunity to respond to the deficiency notice.

The deficiency notice advised the union that an amended complaint could be filed and served within 21 days following such notice, and that any materials filed as an amended complaint would be reviewed under WAC 391-45-110 to determine if they stated a cause of action. The deficiency notice further advised the union that in the absence of a timely amendment stating a cause of action, the allegations concerning employer domination or assistance of the union in violation of RCW 41.56.140(2) would be dismissed.

The union filed an amended complaint on February 20, 2001. While providing additional information about the interference and refusal to bargain allegations, the amended complaint did not address the matters raised in the deficiency notice. The union has failed to cure the defect noted concerning the "domination or assistance of the union" allegations.

NOW THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference and refusal to bargain allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights in violation of RCW 41.56.140(1), and refusal to bargain in violation of RCW 41.56.140(4), by breach of its good faith bargaining obligations in delaying to schedule dates for negotiation meetings, canceling meetings, and failing to present a contract proposal.

The interference and refusal to bargain allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Franklin County shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the amended complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the amended complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the amended complaint, will be deemed to be an admission that the fact is true as alleged in the amended complaint, and as a waiver of a hearing as to the facts so admitted. See, WAC 391-45-210.

3. The allegation of the amended complaint concerning employer domination or assistance of the union in violation of RCW 41.56.140(2) is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 15th day of March, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.