

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF)	
FIRE FIGHTERS, LOCAL 3628,)	
)	
Complainant,)	CASE 15866-U-01-4032
)	
vs.)	DECISION 7499 - PECB
)	
YELM FIRE DISTRICT)	ORDER OF DISMISSAL
(THURSTON FIRE DISTRICT 2),)	
)	
Respondent.)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by IAFF, Local 3628 (union) on June 14, 2001. The complaint alleged that Yelm Fire District (employer) committed an "other unfair labor practice" by its proposal in negotiations to remove a step in the existing progressive disciplinary procedure, and a comment by Fire Chief Bill Steele that "it didn't matter if we took the step out or not. If he needed to he would just fire someone and then fight the union."

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on July 18, 2001, indicating that it was not possible to conclude that a cause of action existed at that time. The deficiency notice stated that the complaint failed to explain and specify what "other" statute had been violated by the employer's actions. The deficiency notice indicated that the statement of facts attached to the complaint indicated that Steele's comment "constitutes a failure to bargain in good faith. We feel also that it may be harassment." However, the complaint

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.

did not contain factual allegations concerning adverse employer actions taken against employees for their participation in union activities. Such actions would be an employer discrimination violation under RCW 41.56.140(1).

The deficiency notice stated that the factual allegations of the complaint did not support a breach of the employer's good faith bargaining obligations under RCW 41.56.140(4). An employer has authority to take disciplinary action against an employee. If the union disagrees with such action, it has the right to file a grievance under a contractual grievance procedure.

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 complaint would be dismissed. Nothing further has been received from the union.

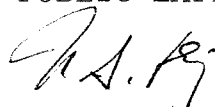
NOW THEREFORE, it is

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 11th day of September, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

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.