

Clark County, Decision 7619 (PECB 2001)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JUDITH E. GOUTHRO,)	
)	
Complainant,)	CASE 16034-U-01-4089
)	
vs.)	DECISION 7619 - PECB
)	
CLARK COUNTY,)	
)	ORDER OF DISMISSAL
Respondent.)	
)	
)	

On October 3, 2001, Judith E. Gouthro (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Clark County (employer) as the respondent. The complaint alleged the employer had violated RCW 41.56.140(1), by discriminatorily excluding the complainant from an existing bargaining unit of employees represented by Office and Professional Employees International Union, Local 11.

The initial processing of the complaint was routine, and Examiner Kenneth J. Latsch was assigned to conduct further proceedings. The employer filed a timely answer on December 12, 2001. Apart from denying that it had committed any unfair labor practice, the employer's answer asserted that it had never been served with a copy of the complaint that was filed with the Commission.

On January 10, 2002, the Examiner sent a letter to the complainant, requesting specific proof that service had been made. The

complainant's attention was directed to WAC 391-08-120, which states in pertinent part:

SERVICE ON OTHER PARTIES

(3) A party which files any papers with the agency *shall serve a copy of the papers upon all counsel and representatives of record and upon unrepresented parties or upon their agents* designated by them or by law. Service shall be completed no later than the day of filing, by one of the following methods:

(a) Service may be made personally, and shall be regarded as completed when delivered in the manner provided in RCW 4.28.080;

(b) Service may be made by first class, registered, or certified mail, and shall be regarded as completed upon deposit in the United States mail properly stamped and addressed;

(c) Service may be made by commercial parcel delivery company, and shall be regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(d) Service may be made by fax, and shall be regarded as completed upon production by the fax machine of confirmation of transmission, together with same day mailing of a copy of the papers, postage prepaid and properly addressed, to the person being served.

(e) Service may be made by e-mail attachment, and shall be regarded as completed upon transmission, together with same day mailing of a copy of the papers, postage prepaid and properly addressed, to the person being served.

PROOF OF SERVICE

(4) *On the same day that service of any papers is completed under subsection (3) of this section, the person who completed the service shall:*

(a) *Obtain an acknowledgment of service from the person who accepted personal service; or*

(b) *Make a certificate stating that the person signing the certificate personally served the papers by delivering a copy at a date, time and place specified in the certificate to a person named in the certificate; or*

(c) *Make a certificate stating that the person signing the certificated completed service of the papers by:*

(i) *Mailing a copy under subsection (3)(b) of this section; or*

(ii) *Depositing a copy under subsection (3)(c) of this section with a commercial parcel delivery company named in the certificate; or*

(iii) *Transmitting and mailing a copy under subsection (3)(d) of this section.*

(5) *Where the sufficiency of service is contested, an acknowledgment of service obtained under subsection (4)(a) of this section or a certificate of service under subsection (4)(b) or (c) of this section shall constitute proof of service.*

(emphasis added).

The complainant was informed that the respondent's answer invoked subsection (5) of the above-quoted rule, and she was directed to inform the Commission of what steps were taken to serve a copy of the complaint on Clark County.

On January 18, 2002, the complainant filed a timely response, admitting that she did not have proof of service as set forth in WAC 391-08-120.

The Commission has frequently and consistently enforced the "service" requirements of the rules, as supporting the process of

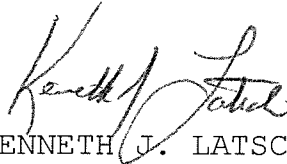
communications inherent in the collective bargaining process. Given the complainant's failure to provide proof of service, the complaint cannot be processed further, and must be dismissed.

ORDER

Based on the failure of the complainant to provide proof of service as required by WAC 391-08-120, the complaint charging unfair labor practices in this matter is hereby DISMISSED.

DATED at Olympia, Washington, this 28th day of January, 2002.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



KENNETH J. LATSCH, Examiner

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.