

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GENERAL TEAMSTERS LOCAL UNION 174,)	
)	
Complainant,)	CASE 16020-U-01-4083
)	
vs.)	DECISION 7571 - PECB
)	
PORT OF SEATTLE,)	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 General Teamsters Local Union 174 (union) on September 26, 2001. The complaint alleged that the Port of Seattle (employer) interfered with employee rights in violation of RCW 41.56.140(1), and refused to bargain in violation of RCW 41.56.140(4), by preventing employee Gene Schomin from providing testimony under subpoena from the union at a Board of Adjustment hearing during the processing of a grievance filed by the union concerning the discipline of Choice Land.

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on October 23, 2001, indicating that it was not possible to conclude that a cause of action existed at that time

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.

for the allegations of employer refusal to bargain in violation of RCW 41.56.140(4). The deficiency notice indicated that a breach of the good faith bargaining obligations of RCW 41.56.030(4) involves either a public employer or union utilizing bargaining tactics which, under the circumstances, frustrate agreement. The deficiency notice stated that the factual allegations of the complaint failed to indicate that the employer's conduct concerning Schomin occurred during contract negotiations between the parties.

The deficiency notice indicated that the interference allegations of the complaint under RCW 41.56.140(1) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had 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 refusal to bargain in violation of RCW 41.56.140(4) would be dismissed. Nothing further has been received from the union.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference 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), by preventing employee Gene Schomin from providing testimony under subpoena from the union at a Board of Adjustment hearing during the processing of a grievance

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

2. The Port of Seattle 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 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 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 complaint, will be deemed to be an admission that the

fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. See WAC 391-45-210.

3. The allegation of the complaint concerning employer refusal to bargain in violation of RCW 41.56.140(4) is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 11th day of December, 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.