

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF PASCO,	)	
	)	
Complainant,	)	CASE 15373-U-00-3882
	)	
vs.	)	DECISION 7466 - PECB
	)	
INTERNATIONAL ASSOCIATION OF FIRE	)	
FIGHTERS, LOCAL 1433,	)	ORDER OF PARTIAL
	)	DISMISSAL
Respondent.	)	
	)	
	)	

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On September 7, 2000, the City of Pasco (employer) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming International Association of Fire Fighters, Local 1433 (union) as respondent. A preliminary ruling was issued under WAC 391-45-110 on October 6, 2000, finding a cause of action to exist as to two issues. The union filed its answer on those issues, and a hearing was opened on June 5, 2001, before Examiner Vincent M. Helm. At that time, the employer sought to adduce evidence and arguments concerning theories in addition to those set forth in the preliminary ruling. The union objected, and the hearing was recessed pending a reconsideration of the preliminary ruling. When the original complaint was reconsidered, additional causes of action were found to exist, and the union was afforded the opportunity to amend its answer in light of the expanded preliminary ruling.

One allegation in the complaint fails to state a cause of action for unfair labor practice proceedings before the Commission. In paragraph 2.15 of its complaint, the employer alleged:

The Union has engaged in bad faith bargaining in violation of RCW 41.56.150(4) . . . by insisting to the Superior Court that the City was obligated to resolve any dispute over the interpretation of contract language by utilizing the [collective bargaining agreement] Grievance Procedure.

As gleaned from the Commission's files for this and directly-related cases, the background to that allegation is that the employer filed a lawsuit against the union in April of 2000, seeking to have the Superior Court for Franklin County rule that the matters then at issue between the parties in negotiations and mediation were not mandatory subjects of collective bargaining under the statute and/or the parties' collective bargaining agreement.

The Commission regulates the collective bargaining process, including the mutual duty of labor and management to bargain in good faith when negotiating within the collective bargaining process. The Commission does not regulate the advocacy of either labor or management in proceedings outside of the collective bargaining process. See *City of Tacoma*, Decision 322 (PECB, 1978), where the Commission declined to apply the "good faith" obligations of the collective bargaining statute to the negotiations between the parties for the settlement of civil litigation; and *Highland School District*, Decision 2684 (PECB, 1987), where the duty to provide information customarily associated with the collective bargaining process was found inapplicable to parties engaged in civil litigation. Having attempted to invoke the jurisdiction of the superior court, the employer knew or should have known that the union would defend in that forum. Having had its lawsuit dismissed by the superior court, the employer has sought to have the union's successful advocacy in that forum second-guessed by the Commission

in this proceeding. While the merits of other claims advanced by the employer concerning the union's conduct in the collective bargaining process are being remanded to the Examiner for further proceedings in this case under Chapter 391-45 WAC, the union's advocacy in the superior court cannot be reviewed in this proceeding.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned proceeding is DISMISSED IN PART, to the extent that it concerns the arguments advanced by the union before the superior court in a related action initiated by the employer.

Issued at Olympia, Washington, on the 18<sup>th</sup> day of July, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency on the matter covered, unless a notice of appeal is filed with the Commission under WAC 391-45-350.