

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SEATTLE,)	
)	
Employer.)	
-----)	
MIROSLAWA POLESZCZUK,)	CASE 16192-U-02-4138
)	
Complainant,)	
)	DECISION 7689 - PECB
vs.)	
)	
TEAMSTERS UNION, LOCAL 763,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
_____)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by Mirosława Poleszczuk (Poleszczuk) on January 25, 2002. Poleszczuk is employed by the City of Seattle (employer). The complaint alleged that Teamsters Union, Local 763 (union) interfered with employee rights in violation of RCW 41.56.150(1), by failing to properly represent Poleszczuk concerning workplace issues.

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on February 15, 2002, 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 at that time. The deficiency notice stated that if bargaining unit employees bring issues or concerns to the attention of a union, the union has an obligation to fairly investigate such concerns to determine whether the union believes that the parties' collective bargaining agreement has been violated. This obligation on the union is known as the duty of fair representation. If the union determines that the concerns have merit, the union has the right to file a grievance under the parties' contractual grievance procedure. If the union determines that the concerns lack merit, the union has no obligation to file a grievance.

The deficiency notice indicated that the Public Employment Relations Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. *Mukilteo School District (Public School Employees of Washington)*, Decision 1381 (PECB, 1982). While a union does owe a duty of fair representation to bargaining unit employees with respect to the processing of grievances, such claims must be pursued before a court which can assert jurisdiction to determine (and remedy, if appropriate) any underlying contract violation.

The deficiency notice advised Poleszczuk 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 Poleszczuk that in the absence of a timely amendment stating a cause of action, the

complaint would be dismissed. Nothing further has been received from Poleszczuk.

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 2nd day of April, 2002.

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.