

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS UNION, LOCAL 760,)	
)	
Complainant,)	CASE 17163-U-03-4444
)	
vs.)	DECISION 8276 - PECB
)	
CITY OF ZILLAH,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	
)	

On February 3, 2003, Teamsters Union, Local 524 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Zillah (employer) as respondent. An amended complaint was filed by the union on February 6, 2003. The union filed a second amended complaint on July 28, 2003, withdrawing a portion of the complaint. The second amended complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice, issued on October 14, 2003, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an additional amended complaint, or face dismissal of the case. On October 20, 2003, Local 760 filed a letter indicating that Local 524 has merged into Local 760. The Commission's docket records were changed to reflect the union's merger.

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.

No further information has been filed by the union. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.56.140(1), by its unilateral change in work hours for Darlene Meyer without providing an opportunity for bargaining.

The complaint indicates that the parties have never had a contract. Absent a collective bargaining agreement between a public employer and a bargaining representative, the employer must maintain the *status quo* concerning mandatory subjects of bargaining until it fulfills its bargaining obligation under RCW 41.56.030(4). This obligation applies equally to a decision to change a mandatory subject as well as to the effects of any such decision. The complaint referred to the employer's failure to bargain the effects of its decision to reduce the work hours of Meyer, but was unclear as to allegations concerning an obligation by the employer to bargain the decision to reduce the work hours of Meyer. The union failed to file an additional amended complaint clarifying that matter.

Unilateral changes involve an employer making a decision or taking action to change the wages, hours or working conditions of employees without first having given notice to the union, providing an opportunity for collective bargaining, and bargaining in good faith upon request. Allegations of unilateral change can only be processed under the refusal to bargain provisions of RCW

41.56.140(4). If such allegations are found to constitute a violation of RCW 41.56.140(4), a derivative interference violation is automatically found under RCW 41.56.140(1). Allegations of unilateral change do not state a cause of action for an independent interference violation under RCW 41.56.140(1). The union alleged an interference violation under RCW 41.56.140(1), but not a refusal to bargain violation under RCW 41.56.140(4). The union failed to file an additional amended complaint alleging a violation of RCW 41.56.140(4).

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 10th day of December, 2003.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Unfair Labor Practice Manager

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.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 12/10/2003

The attached document identified as: **RECORD OF SERVICE** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION


BY: /S/ DIANE THOVSEN

CASE NUMBER: 17163-U-03-04444 FILED: 02/03/2003 FILED BY: PARTY 2
DISPUTE: ER UNILATERAL
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