

State - Corrections (Teamsters Local 117), Decision 8376 (PSRA, 2004)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE - CORRECTIONS,)	
)	
Employer.)	
-----)	
RICK PAYNE,)	CASE 17455-U-03-4526
)	
Complainant,)	DECISION 8376 - PSRA
)	
vs.)	
)	
TEAMSTERS UNION, LOCAL 117,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	

On April 21, 2003, Rick Payne (Payne) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters Union, Local 117 (Local 117) as respondent. Payne is employed by the Washington State Department of Corrections (DOC/employer). The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice, issued on December 29, 2003, indicated that it was not possible to conclude that a cause of action existed at that time. Payne was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

On January 23, 2004, Payne filed an amended complaint. After review of the amended complaint, the Unfair Labor Practice Manager

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.

dismisses the amended complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern union interference with employee rights in violation of RCW 41.56.150(1), inducement of employer to commit an unfair labor practice in violation of RCW 41.56.150(2), discrimination for filing an unfair labor practice charge in violation of RCW 41.56.150(3), and other unspecified unfair labor practices, by failing to allow employees to engage in the collective bargaining process, and interfering with the right of employees to elect their leaders and to bargain collectively through representatives of their choice.

Several defects are noted with the complaint. One, unlike the Washington State Department of Personnel or the National Labor Relations Board, the Commission does not investigate facts which are alleged in a complaint to determine if any collective bargaining statute has been violated. The complainant is responsible for presentation of evidence supporting its complaint at a hearing before an examiner. See WAC 391-45-270.

Two, the Commission has adopted the following rule concerning the filing of an unfair labor practice complaint:

WAC 391-45-050 CONTENTS OF COMPLAINT. Each complaint charging unfair labor practices shall contain, in separate numbered paragraphs:

. . . .
(2) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(3) A statement of the remedy sought by the complainant.

. . . .

The complaint does not conform to the requirements of WAC 391-45-050.

Three, in relation to the allegations of violation of RCW 41.56.150(3), a violation concerning discrimination for filing unfair labor practice charges cannot stand absent evidence that the complainant has previously filed an unfair labor practice complaint with the Commission. The complaint does not contain any such factual allegations.

Four, as the complaint fails to state a cause of action against the employer under RCW 41.56.140, there are insufficient factual allegations to support a cause of action that Local 117 induced the employer to commit an unfair labor practice in violation of RCW 41.56.150(2). Five, in relation to the allegations of other unfair labor practices, the complaint fails to explain and specify what "other" statute has been violated by Local 117's actions.

The amended complaint met the requirements of WAC 391-45-050 by providing a statement of facts and requested remedy. The statement of facts refers to a representation agreement effective February 24, 2002, between Teamsters Union, Locals 117 and 313. Under the agreement, Local 313 appointed Local 117 to "act as its agent for purposes of representing the DOC bargaining unit." The agreement was signed on behalf of Local 313 by Payne, who was listed as its secretary-treasurer.

The statement of facts alleges that due to the representation agreement, Local 313 members at DOC were not allowed to attend the

local's monthly general meetings, to be nominated and run as candidates for union officers, and to vote in the local's November 2002 election. The statement of facts refers to an unfair labor practice complaint filed by the Washington Public Employees Association (WPEA) on July 18, 2002, in Case 16575-U-02-4315, and alleges that Local 117 received unlawful assistance from the employer when the employer allowed Local 117 access to the workplace to solicit employees to join Local 117.

The amended complaint has cured defects one and two listed above. However, the amended complaint failed to cure defects three, four and five listed above and has additional defects. The allegations of the amended complaint concerning attendance at union meetings and participation in a union election fail to state a cause of action. The process used by a union to decide criteria for attendance at union meetings, and nomination and voting procedures for union officers, is purely of a union's own creation. Such process is part of a union's internal affairs and is often controlled by a union's constitution and/or bylaws. The constitution and bylaws of a union are the contracts among the members of the union for how the organization is to be operated. Disputes concerning alleged violations of the constitution and bylaws of a union must be resolved through internal procedures of the union or the courts. *Enumclaw School District*, Decision 5979 (PECB, 1997).

The allegations of the amended complaint in relation to the complaint filed by WPEA in Case 16575-U-02-4315 are untimely. The Commission is bound by the following provisions of Chapter 41.56 RCW:

RCW 41.56.160 COMMISSION TO PREVENT UNFAIR LABOR PRACTICES AND ISSUE REMEDIAL ORDERS AND CEASE AND DESIST ORDERS. (1) The commission is empowered and directed to

prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. . . .

Allegations contained in a complaint filed with the Commission on July 18, 2002, had to have occurred on or prior to July 18, 2002. In order for the amended complaint to be timely under RCW 41.56.160, the complaint must contain allegations of union misconduct occurring on or after October 21, 2002.

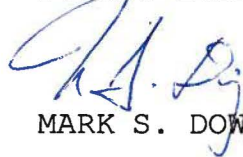
NOW, THEREFORE, it is

ORDERED

The amended 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 3rd day of February, 2004.

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.