

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ROBERT STAMEY,	)	CASE 18634-U-04-4739
	)	DECISION 8720 - PSRA
	)	
Complainant,	)	CASE 18652-U-04-4742
	)	DECISION 8721 - PSRA
	)	
vs.	)	CASE 18673-U-04-4745
	)	DECISION 8722 - PSRA
	)	
WASHINGTON STATE - CORRECTIONS,	)	CASE 18674-U-04-4746
	)	DECISION 8723 - PSRA
	)	
Respondent.	)	CASE 18675-U-04-4747
	)	DECISION 8724 - PSRA
	)	
	)	ORDER OF DISMISSAL
	)	

---

Robert Stamey (Stamey) filed five complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Corrections (employer) as respondent. On June 18, 2004, Stamey filed the first complaint, which was docketed by the Commission as Case 18634-U-04-4739. Stamey filed an amendment to the first complaint on June 25, 2004. On June 25, 2004, Stamey filed the second complaint, which was docketed as Case 18652-U-04-4742. Stamey filed an amendment to the second complaint on July 1, 2004. Stamey filed the third, fourth and fifth complaints on July 1, 2004. Those complaints were respectively docketed as Cases 18673-U-04-4745, 18674-U-04-4746 and 18675-U-04-4747.

The complaints were reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on August 4, 2004, indicated that it was not possible to conclude that a cause of action existed at that time. Stamey was given a period of 21 days in which to file and serve amended complaints, or face dismissal of the cases.

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

## DISCUSSION

### Complaint Involving Change in Shift Schedules

The allegations of the complaint in Case 18634-U-04-4739 concern an "other unfair labor practice" violation by the employer through its mandates that the workday be lengthened to include a one-half hour lunch break, that rest periods occur as early as the second hour of a shift, and that certain positions in the custody staffing model be self-relieving. Stamey checked the box entitled "Other Unfair Labor Practice" on Form U-1, Complaint Charging Unfair Labor Practices and alleges a violation of RCW 41.56.030(4) and various federal wage and hour laws.

The complaint is defective for several reasons. One, the good faith bargaining obligations of Chapter 41.56 RCW are set forth in RCW 41.56.030(4) as follows:

---

<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaints are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaints state a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

RCW 41.56.030 DEFINITIONS. As used in this chapter:

. . . .  
(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions  
. . . .

The good faith bargaining obligations of RCW 41.56.030(4) can only be enforced by an employee organization or a public employer. Individual employees do not have standing to process allegations concerning breach of a party's good faith bargaining obligations.

Two, the Public Employment Relations Commission does not have jurisdiction concerning federal wage and hour laws.

#### Complaint Involving Intermittent Appointments

The allegations of the complaint in Case 18652-U-04-4742 concern an "other unfair labor practice" violation by the employer through its use of intermittent appointments to fill correctional officer vacancies. Stamey alleges that the employer's conduct violates RCW 41.06.150(4) and WAC 356-30-140(1).

The complaint is defective. The Public Employment Relations Commission does not have jurisdiction over alleged violations of RCW 41.06.150 or Chapter 356-30 WAC.

#### Complaint Involving Forced Overtime

The allegations of the complaint in Case 18673-U-04-4745 concern an "other unfair labor practice" violation by the employer through its

assignment of forced overtime to employees. Stamey alleges that the employer's conduct violates RCW 41.56.030(4).

The complaint is defective. As for the complaint in Case 18634-U-04-4739, individual employees do not have standing to process allegations concerning breach of a party's good faith bargaining obligations.

#### Complaint Involving Pepper Spray

The allegations of the complaint in Case 18674-U-04-4746 concern an "other unfair labor practice" violation by the employer through its training program that exposes employees to the effects of pepper spray. Stamey alleges that the employer's conduct violates RCW 41.56.030(4).

The complaint is defective. As for the complaints in Cases 18634-U-04-4739 and 18673-U-04-4745, individual employees do not have standing to process allegations concerning breach of a party's good faith bargaining obligations.

#### Complaint Involving Fire Camp Tents

The allegations of the complaint in Case 18675-U-04-4747 concern an "other unfair labor practice" violation by the employer through compelling some employees to sleep in tents at fire camps. Stamey alleges that the employer's conduct violates RCW 41.56.030(4) and WAC 356-15-090.

The complaint is defective for several reasons. One, as for the complaints in Cases 18634-U-04-4739, 18673-U-04-4745 and 18674-U-04-4746, individual employees do not have standing to process allegations concerning breach of a party's good faith bargaining

obligations. Two, the Public Employment Relations Commission does not have jurisdiction over alleged violations of Chapter 356-15 WAC.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices in the above captioned matters are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 14<sup>th</sup> day of September, 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.