

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY))	
AND CITY EMPLOYEES,))	
Complainant,))	CASE 18080-U-03-4641
vs.))	DECISION 8488 - PECB
NORTHSHORE UTILITY DISTRICT,))	PARTIAL DISMISSAL AND
Respondent.))	ORDER FOR FURTHER
_____))	PROCEEDINGS
)	

On December 15, 2003, Washington State Council of County and City Employees (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Northshore Utility District (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on February 18, 2004, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the defective allegations. Nothing further has been received from the union.

The Unfair Labor Practice Manager dismisses the defective allegations for failure to state a cause of action, and finds a cause of action for the interference allegations of the complaint.

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.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.56.140(1) and domination or assistance of a union in violation of RCW 41.56.140(2), by termination of Diane Meister for her participation in the union's investigation of a grievance concerning the termination of Grace Haynes.

The deficiency notice indicated that a cause of action did not exist for the allegations of employer domination or assistance of a union in violation of RCW 41.56.140(2). None of the facts alleged in the complaint suggest that the employer has involved itself in the internal affairs or finances of the union, or that the employer has attempted to create, fund, or control a "company union." See *City of Anacortes*, Decision 6863 (PECB, 1999).

The deficiency notice stated that the interference allegations of the complaint under RCW 41.56.140(1) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the deficiency notice.

Filing of Answer

On December 17, 2003, the employer filed a letter in response to the complaint. Under WAC 391-45-110, the preliminary ruling process is limited to a review of "the facts alleged in the complaint . . ." The employer's letter was not considered in preparing the deficiency notice.

On March 10, 2004, the employer filed an answer to the complaint. WAC 391-45-110(2) requires the filing of an answer in response to

a preliminary ruling which finds a cause of action to exist. The employer may file an additional answer, or may stand on the answer it has already filed.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights in violation of RCW 41.56.140(1), by termination of Diane Meister for her participation in the union's investigation of a grievance concerning the termination of Grace Haynes.

The interference allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Northshore Utility District shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and

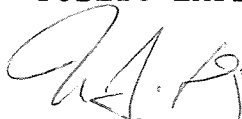
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. See WAC 391-45-210.

3. The allegations of the complaint concerning employer domination or assistance of a union in violation of RCW 41.56.140(2), are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 5th day of April, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Unfair Labor Practice Manager

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.