

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 763,)	
)	
Complainant,)	CASE 19231-U-05-4886
)	
vs.)	DECISION 8939 - PECB
)	
CITY OF SULTAN,)	
)	
Respondent.)	PRELIMINARY RULING AND PARTIAL DISMISSAL
)	
_____)	

On February 25, 2005, Teamsters Local 763 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Sultan (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on April 11, 2005, 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 of the complaint for failure to state a cause of action, and finds a cause of action for refusal to bargain allegations of the complaint. The employer must file and serve its answer to the

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.

refusal to bargain allegations within 21 days following the date of this decision.

DISCUSSION

The allegations of the complaint concern employer domination or assistance of a union in violation of RCW 41.56.140(2) and refusal to bargain in violation of RCW 41.56.140(4), by its refusal to provide relevant collective bargaining information requested by the union concerning a possible grievance over accrual of sick and vacation leave.

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." *City of Anacortes*, Decision 6863 (PECB, 1999).

The deficiency notice stated that the refusal to bargain allegations of the complaint under RCW 41.56.140(4) 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.

NOW, THEREFORE, it is

ORDERED

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

Employer refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative "interference" in violation of RCW 41.56.140(1)], by its refusal to provide relevant collective bargaining information requested by the union concerning a possible grievance over accrual of sick and vacation leave.

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

2. The City of Sultan 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. 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 10th day of May, 2005.

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.