

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS, LOCAL 174,)	
)	
Complainant,)	CASE 20999-U-07-5361
)	
vs.)	DECISION 9653 - PECB
)	
KING COUNTY,)	
)	
Respondent.)	ORDER DENYING MOTION
)	
_____)	

Schwerin, Campbell, Barnard, and Iglitzin, L.L.P., by Dmitri Iglitzin, Attorney at Law, for the union.

Trish K. Murphy, Attorney at Law, for the employer.

This case came before the Commission on a motion for temporary relief filed under WAC 391-45-430. Confirming the action taken by the Commission at a public meeting held on April 10, 2007, the motion is DENIED.

PROCEDURAL HISTORY

Teamsters, Local 286 (union), is the exclusive bargaining representative of the transfer station operators and drivers employed by King County (employer). On November 22, 2006, Examiner J. Martin Smith issued a decision finding that the employer committed an unfair labor practice when it installed surveillance cameras without first notifying the union and providing an opportunity to bargain.¹ The Examiner ordered the employer to, among other things, utilize evidence gathered by the cameras in employee

¹ King County, Decision 9496 (PECB, 2006).

discipline and bargain with the union regarding the installation of surveillance cameras. The employer filed a timely appeal which is currently pending before this Commission.

On March 29, 2007, the union filed a motion and affidavits seeking temporary relief under WAC 391-45-430, requesting that the Commission seek temporary relief on the union's behalf to enjoin the employer for terminating Transfer Station Operator Deborah Collins. The union argued that Collins' termination was based upon evidence collected by the surveillance cameras in direct violation of the Examiner's order.

Consistent with agency practice, the agency assigned a new case number, Case 20999-U-07-5361, to the temporary relief proceeding. Consideration of the matter was scheduled for the next Commission meeting, April 10, 2007.

DISCUSSION

Under limited circumstances, the Commission invokes its authority under RCW 41.56.160 to seek temporary relief by authorizing the Attorney General of Washington to file suit in the courts to preserve the status quo pending the outcome of unfair labor practice proceedings. RCW 41.56.160 states:

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. . . .

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and

policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

The Commission adopted WAC 391-45-430 to govern motions for temporary relief. The Commission's rule states, in part:

WAC 391-45-430 MOTION FOR TEMPORARY RELIEF. In addition to the remedies available under WAC 391-45-410, a complainant in an unfair labor practice proceeding may make a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

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(5) The executive director shall forward all motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making its determination, the commission shall adhere to the following policy:

"The name and authority of the public employment relations commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 391-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the executive director, acting in the name and on behalf of the commission and with the assistance of the attorney general, shall petition the superior court of the county in which the main office of

the employer is located or wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(c) A determination by the commission that temporary relief should not be sought at a particular time shall not bar renewal of the motion for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

(emphasis added).

In this case, the Commission declined to use its authority to seek temporary relief on the union's behalf. The union failed to persuade the Commission that it, and the employee it represented, would suffer irreparable harm if temporary relief were not granted.

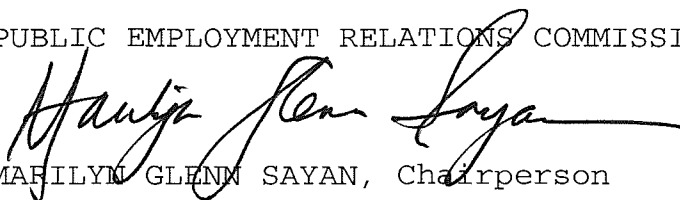
NOW, THEREFORE, it is


ORDERED

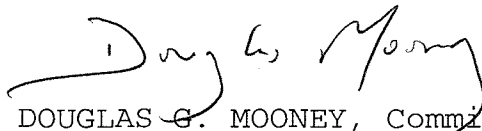
The motion for temporary relief made in the above-captioned matter is DENIED.

Issued at Olympia, Washington, the 9th day of May, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


DOUGLAS G. MOONEY, Commissioner