

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE UNIVERSITY,)	
)	
Employer.)	
-----)	
GERRY STAMPER,)	
)	
Complainant,)	CASE 20869-U-07-5318
)	
vs.)	DECISION 9660 - PSRA
)	
WASHINGTON FEDERATION OF STATE)	
EMPLOYEES,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____)	

On January 22, 2007, Gerry L. Stamper (Stamper) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington Federation of State Employees (union) as respondent. Stamper is an employee of Washington State University (employer). The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on March 1, 2007, indicated that it was not possible to conclude that a cause of action existed at that time. Stamper was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

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

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 union interference with employee rights in violation of RCW 41.80.110(2)(a), by collecting authorization cards in support of a representation petition during a one-year certification bar period.

The deficiency notice pointed out a defect in the complaint. The complaint refers to a November 2, 2005, election conducted by the Commission in Case 19634-E-05-3090. The election resulted in a certification of "No Representation" by the Commission. See *Washington State University*, Decision 9164 (PSRA, 2005).

The one-year certification bar principle is contained in the following Commission rule:

WAC 391-25-030 PETITION--TIME FOR FILING

(2) A "certification bar" exists where a certification has been issued by the agency, so that a petition involving the same bargaining unit or any subdivision of that bargaining unit will only be timely if it is filed:

(b) More than twelve months following the date of the latest election or cross-check in which the employees failed to select an exclusive bargaining representative.

The one-year certification bar period under WAC 391-25-030 applies to the date for filing of a representation petition, and not to the date for collection of authorization cards in support of a petition.

Information concerning authorization cards is contained in the following rule:

WAC 391-25-110 SUPPORTING EVIDENCE--SHOWING OF INTEREST CONFIDENTIAL. (1) A petition filed by employees or an employee organization shall be accompanied by a showing of interest indicating that the petitioner has the support of thirty percent or more of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest shall be furnished under the same timeliness standards applicable to the

petition, and shall consist of original or legible copies of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate.

WAC 391-25-110 does not place time restrictions on the signing or collection of authorization cards.

Showing of interest documents must be filed with the Commission under the same timeliness standards that are applicable to the filing of a petition under WAC 391-25-030(3). That rule reads as follows:

(3) Where neither a "contract bar" nor a "certification bar" is in effect under this section, a petition may be filed at any time.

Commission rules do not prohibit the collection of authorization cards in support of a representation petition during the one-year certification bar period. The complaint fails to state a cause of action.

NOW, THEREFORE, it is

ORDERED

The 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 1st day of May, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, 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.