State - Ecology (Washington Federation of State Employees), Decision 9674 (PSRA, 2007)

#### STATE OF WASHINGTON

#### BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE - ECOLOGY	) ) )
ERIC HARTWIG,	)
Complainant,	) CASE 20861-U-07-5315
vs.	) DECISION 9674 - PSRA
WASHINGTON FEDERATION OF STATE EMPLOYEES,	)
Respondent.	ORDER OF DISMISSAL

On January 19, 2007, Eric Hartwig (Hartwig) 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. Hartwig is an employee of the Washington State Department of Ecology. The complaint was reviewed under WAC 391-45-110, and a deficiency notice issued on March 13, 2007, indicated that it was not possible to conclude that a cause of action existed at that time. Hartwig 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 Hartwig. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

### **DISCUSSION**

The allegations of the complaint concern union interference with employee rights, in violation of RCW 41.80.110(2)(a), by the

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.

union's not accepting Hartwig's designation of a charity, and by the union's unilateral designation of the charity. It is not possible to conclude that a cause of action exists at this time. The complaint is defective.

Complaints charging interference must state facts, that if true, would prove that an employee could reasonably perceive the respondent's actions as a threat of reprisal or force, or promise of benefit, associated with the employee's pursuit of collective bargaining rights. City of Tacoma, Decision 6793-A (PECB, 2000); City of Omak, Decision 5579-B (PECB, 1998). Hartwig's complaint uses exactly the same wording as his petition for a ruling on a non-association claim filed in Case 20860-N-07-54. The facts alleged in that petition are insufficient to conclude that the union made any threats of reprisal or force, or promise of benefit, in violation of RCW 41.80.110(2)(a).

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 \_9th day of May, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

FOR 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.

## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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# RECORD OF SERVICE - ISSUED 05/09/2007

The attached document identified as: DECISION 9674 - PSRA has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION

CASE NUMBER:

20861-U-07-05315

FILED:

01/19/2007

FILED BY:

PARTY 2

DISPUTE:

UN MISC ULP

BAR UNIT:

ALL EMPLOYEES

**DETAILS:** COMMENTS:

EMPLOYER:

ATTN:

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