

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JOHN A. WALLACE,)	
)	
Complainant,)	CASE 20985-U-07-5356
)	
vs.)	DECISION 9746 - PSRA
)	
WASHINGTON STATE - SOCIAL AND)	
HEALTH SERVICES,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	

On March 22, 2007, John A. Wallace (Wallace) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Social and Health Services (employer) as respondent. The complaint was docketed as Case 20985-U-07-5356. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on April 30, 2007, indicated that it was not possible to conclude that a cause of action existed at that time. Wallace was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

Wallace has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The complaint concerns allegations against the employer for interference with employee rights in violation of RCW

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.

41.80.110(1)(a) by instructing Wallace to not discuss the topic of decertification with subordinates or attend meetings with subordinates regarding decertification.

It is not possible to conclude that a cause of action exists at this time for allegations of the complaint. The deficiency notice pointed out two defects.

One, the Commission has adopted the following rule concerning the filing of an unfair labor practice complaint:

WAC 391-45-050 CONTENTS OF COMPLAINT. Each complaint charging unfair labor practices shall contain, in separate numbered paragraphs:

(2) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

The statement of facts refers to an attached memorandum of February 21, 2007, but the relationship of the memorandum to the statement of facts is unclear. If Wallace intends to include information from the memorandum as part of his complaint, he needs to do so in the body of the statement of facts.

Two, the complaint does not allege facts sufficient to conclude that the employer made any threats of reprisal or force or promise of benefit in violation of RCW 41.80.110(1)(a). Wallace identifies himself as a supervisor at Western State Hospital. The Washington Federation of State Employees is the exclusive bargaining representative of two bargaining units representing employees at the hospital: the institutional supervisory bargaining unit and the institutional non-supervisory bargaining unit. *State - Social and Health*, Decision 8420 (PSRA, 2004). Wallace does not identify the bargaining unit to which he belongs. If he belongs to the supervisory unit, he alleges no facts alleging that the employer instructed him not to discuss decertification with members of his own supervisor's unit or to refrain from attending meetings

designated for that unit's discussion of decertification. If he is not a member of the non-supervisory unit, Wallace would have no rights protected under Chapter 41.80 RCW to discuss decertification with members of that bargaining unit or attend meetings designated for that bargaining unit's discussion of decertification.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 20985-U-07-5356 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 19th day of June, 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.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


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The attached document identified as: **DECISION 9746 - 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


BY: S/ ROBBIE DUFFIELD

CASE NUMBER: 20985-U-07-05356 FILED: 03/22/2007 FILED BY: PARTY 2
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DETAILS: Western State Hospital
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