

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION,)	
LOCAL 1576,)	
)	
Complainant,)	CASE 22100-U-08-5632
)	
vs.)	DECISION 10267 - PECB
)	
COMMUNITY TRANSIT,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____)	

On November 10, 2008, the Amalgamated Transit Union, Local 1576 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Community Transit (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on November 19, 2008, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On December 11, 2008, the union filed an amended complaint. The Unfair Labor Practice Manager dismisses the amended complaint for failure to state a cause of action.

DISCUSSION

The deficiency notice pointed out the defects to the complaint. Chapter 391-45 WAC governs the filing and processing of unfair

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.

labor practice complaints. Complaints must conform to WAC 391-45-050.

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 mentions grievances the employer has allegedly refused to process, but does not include times, dates, places, and participants as required by WAC 391-45-050(2).

However, the complaint is deficient as a matter of law. The union may not enforce the arbitration provisions of the expired contract, under the ruling in *Maple Valley Firefighters, Local 3062 v. King County Fire Protection District No. 43*, 135 Wn. App. 749, 145 P.3d 1247 (2006). The union cites in its favor the Commission's decision in *Asotin County Corrections Guild*, Decision 9549-A (PECB, 2007). Under the facts of that case, the Commission purposefully did not rule on the issue presented by *Maple Valley Firefighters*; that is, whether arbitration clauses survive the expiration of collective bargaining agreements. While the Commission expressed reservations about the earlier Commission decisions underlying *Maple Valley Firefighters*, it did not overrule them. Because the *Asotin County* case was withdrawn by the parties without a final ruling on the merits, the Court of Appeals decision governs the present case.

It is not possible at the preliminary ruling stage to revisit Commission or Court decisions. Under the facts presented in this complaint, no cause of action exists for employer interference with employee rights in violation of RCW 41.56.140(1) and refusal to bargain in violation of RCW 41.56.140(4).

The Amended Complaint

The amended complaint cured the first defect by including specific information concerning two grievances. However, the amended complaint, like the complaint, is deficient as a matter of law.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 22100-U-08-5632 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 2nd day of January, 2009.

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.