

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SNOHOMISH COUNTY,)	
)	
Employer,)	
-----))	
AURELIA JACKSON,)	
)	
Complainant,)	CASE 22105-U-08-5633
)	
vs.)	DECISION 10268 - PECB
)	
SNOHOMISH COUNTY CORRECTIONS GUILD,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____))	

On November 13, 2008, Aurelia Jackson (Jackson) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Snohomish County Corrections Guild (union) as respondent. The complaint was docketed by the Commission as Case 22105-U-08-5633. The allegations of the complaint concern unspecified "other" unfair labor practices concerning Jackson.

The complaint was reviewed under WAC 391-45-110, and a deficiency notice issued on November 20, 2008, indicated that it was not possible to conclude that a cause of action existed at that time. Jackson was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the complaint. On December 15, 2008, Jackson filed an amended complaint. The amended statement of facts alleges that the union breached its duty of fair representation. 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 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 complaint does not fully conform to the requirements of WAC 391-45-050(2). Although Jackson provides times, dates, places, and participants, her legal claims remain unclear. Jackson checked the box on the complaint form only for "other" unfair labor practices. The statement of facts identifies the union as the respondent and alleges that the union has breached its duty of fair representation to Jackson. Jackson's complaint appears to concern her disputes with union leadership and co-workers.

Based upon these apparent allegations, the Commission lacks jurisdiction regarding this complaint. The Commission's jurisdiction is limited to issues concerning the collective bargaining rights of employees. The Commission has jurisdiction to adjudicate claims of a union's breach of its duty of fair representation when the claims involve employee rights protected under collective bargaining statutes, in this case, Chapter 41.56 RCW. The Commission has no jurisdiction to involve itself in internal union affairs or governance, or in disputes between employees in the workplace. Jackson must seek redress for any complaints against the union through the union's own procedures or the courts.

Complaints against co-workers should be pursued through the employer's policies and procedures or the courts.

The Amended Complaint

Jackson filed her original complaint on November 13, 2008. The following statute of limitations applies in this case.

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: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

In the present case, the Commission could issue remedial orders only for union actions occurring on or after May 13, 2008. Jackson provides background information for alleged violations prior to that date. That information has not been considered for the purpose of this Order.

In the amended complaint, Jackson states that a basis of her claim against the union is that it failed to bargain with the employer over her reassignment. A union's decisions on the issues it will bargain with an employer are within the union's control and are not subject to review by the Commission. Jackson must pursue this matter through union channels.

Jackson also implies that the union's alleged breach of duty was based upon her gender. The Commission does not assert jurisdiction over duty of fair representation claims involving grievances, because they concern contractual disputes arising from collective bargaining agreements. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through

the unfair labor practice provisions of Chapter 41.56 RCW. Rather, the Commission acts to interpret collective bargaining statutes and does not act in the role of arbitrator to interpret collective bargaining agreements.

However, the Commission may assert jurisdiction where an employee shows that a union's breach of its duty of fair representation is based upon "invidious discrimination," including gender and race bias. *Allen v. Seattle Police Officers' Guild*, 100 Wn.2d 361 (1983). Thus, if Jackson had stated a cause of action based upon gender bias, the Commission could assert jurisdiction over her claims, because they would be not be exclusively contractual disputes, but allegations involving invidious discrimination.

Invidious discrimination claims are rarely made; in fact, there are no controlling Commission precedents involving findings of invidious discrimination related to a union's duty of fair representation. Jackson states that the union officers are all Caucasian males and implies that the union discriminated against her because of her gender. An accusation of invidious discrimination alone, without sufficient supporting facts, does not state a cause of action for union interference through a breach of its duty of fair representation. The Commission will not infer a connection between invidious discrimination and a union's actions toward an employee based only upon an employee's assertion or implication that the connection exists.

Jackson also provides information regarding apparent personal disputes with co-employees and union officers. The Commission has no jurisdiction in these matters.

The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is

actually conferred upon the agency by statute. The agency does not have authority to resolve each and every dispute that might arise in public employment and only has jurisdiction to resolve collective bargaining disputes between employers, employees, and unions. Jackson's claims against the union fundamentally involve disputes related to internal union matters. Jackson has access to claims-processing and remedies through union by-laws and the judiciary. Jackson must pursue her claims and requested remedies through internal union procedures or the courts.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 22105-U-08-5633 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.