

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PIERCE COUNTY,)	
)	
Employer.)	
-----)	
)	
DOUGLAS JOHNSON,)	
)	
Complainant,)	CASE 22358-U-09-5702
)	
vs.)	DECISION 10386 - PECB
)	
AFSCME, COUNCIL 2,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____)	

On March 30, 2009, Douglas Johnson (Johnson) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming AFSCME, Council 2 (union) as respondent. Pierce County (employer) was not a party to the action. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on April 2, 2009, indicated that it was not possible to conclude that a cause of action existed at that time. Johnson was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

Johnson has not filed any further information. 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 41.56.150(1), in connection with negotiations with the employer over terms and conditions for corrections sergeants in a collective bargaining agreement, and representations by union officials to the sergeants concerning the negotiations.

The deficiency notice pointed out the defects to the complaint.

Johnson filed the complaint on behalf of himself and other sergeants. However, Commission rules do not permit class action complaints. Individual employees must file their own unfair labor practice complaints. The complaint is limited to allegations concerning Johnson.

The process used by a union to decide what proposals to accept in collective bargaining negotiations is purely of a union's own creation. Such process is part of a union's internal affairs and is often controlled by a union's constitution and/or bylaws. The constitution and bylaws of a union are the contracts among the members of a union for how the organization is to be operated. The Commission has no jurisdiction in this arena. Disputes concerning alleged violations of the constitution and bylaws of a union must be resolved through internal procedures of the union or the courts. In addition, a union is not required under state collective bargaining laws to negotiate provisions in a collective bargaining agreement providing the same level of benefits or rights to all union-represented employees.

The claim that union representatives misled the sergeants concerning terms of the collective bargaining agreement is also an

internal union matter involving the contract between the union and its members for the internal operations of the union. The Commission has no jurisdiction in this matter. Johnson must seek redress through internal union procedures or the courts.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 22358-U-09-5702 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 1st day of May, 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.