



state claims for relief which can be granted through the unfair labor practice procedures of the Public Employees Collective Bargaining Act, Chapter 41.56 RCW.

The Public Employment Relations Commission does not assert jurisdiction through the unfair labor practice provisions of RCW 41.56 to enforce collective bargaining agreements, see: City of Walla Walla, Decision 104 (PECB, 1976). Nor does it enforce the agreement to arbitrate, see: Thurston County, Decision 103 (PECB, 1976). To the extent that the complainant claims a contractual right to arbitrate his grievance, that right is beyond the authority of the Commission to enforce.

Nothing in the Public Employees Collective Bargaining Act, Chapter 41.56 RCW guarantees an individual employee the right to arbitration of a grievance independent of his or her union and its contract. In fact, any attempt by the employer to give individual employees the right to arbitrate grievances independently would bear a substantial potential for conflict with the principle of exclusive representation set forth in RCW 41.56.080. An arbitrator in a proceeding between only one of the contracting parties (the employer) and a third-party beneficiary to the contract (the employee proceeding independently) could interpret the contract in a manner conflicting with the interpretation intended by both of the signatory parties or establish conflicting wages, hours or working conditions, thereby undermining the union's status as exclusive bargaining representative of the bargaining unit. A similar quest for arbitration was ended, for similar reasons, in City of Seattle, Decision 1226 (PECB, 1981).

One view of the allegations against the union would be to take them as asserting that the union had breached its duty of fair representation in connection with its handling of the complainant's grievance. It is well established that the exclusive bargaining representative owes bargaining unit employees a duty to consider and act on their grievances in a manner which is neither arbitrary, discriminatory nor lacking in good faith. However, when these allegations are compared against that legal standard, they fail to disclose facts sufficient to suggest an absence or insufficiency of union representation. Further, the Public Employment Relations Commission has declined to assert its unfair labor practice jurisdiction to determine "duty of fair representation" claims arising exclusively out of the processing of grievances. See: Mukilteo School District, Decision 1381 (PECB, 1982). The reason for that policy is that, although the Commission might have jurisdiction over the relationship between the employee and the exclusive bargaining representative, the Commission lacks jurisdiction over the employer for enforcement of the collective bargaining agreement. Such matters must be pursued through a civil suit filed in a Superior Court having jurisdiction over the employer.

For the reasons stated above, the complaints fail to state claims on which relief can be granted. With the direction provided here as to what is not available to the complainant through the unfair labor practice procedures of the Commission, he may be better able to focus attention on any claims which are within the jurisdiction of the Commission.

NOW, THEREFORE, it is

ORDERED

The complainant will be allowed a period of fourteen (14) days following the date of this order to amend the complaints. In the absence of an amendment, the complaints will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 22nd day of January, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director