

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SNOHOMISH COUNTY DEPUTY)	
SHERIFF'S ASSOCIATION,)	
)	
Complainant,)	CASE 19175-U-05-4875
)	
vs.)	DECISION 9196-A - PECB
)	
SNOHOMISH COUNTY,)	
)	
Respondent.)	DECISION OF COMMISSION
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Snyder & Hoag, by *David A. Snyder*, Attorney at Law, for the union.

Perkins Coie, by *Lawrence B. Hannah*, Attorney at Law, for the employer.

This case comes before the Commission on a timely appeal filed by the Snohomish County Deputy Sheriff's Association (union) seeking review and reversal of certain Finding of Fact, Conclusions of Law, and Order issued by Examiner Walter M. Stuteville dismissing the complaint.¹ Snohomish County (employer) supports the Examiner's decision. The only issue on appeal is whether the Examiner erred in dismissing the union's complaint.²

¹ *Snohomish County*, Decision 9196 (PECB, 2005).

² The Examiner dismissed the employer's complaint alleging the union interfered with employee rights and failed to bargain in good faith concerning the payroll practices that are the subject of the union's complaint. *Snohomish County (Snohomish County Deputy Sheriff's Association)*, Decision 9197 (PECB, 2005) (Case 19297-U-05-4899). The employer declined to appeal that decision, and therefore we need not address that case here.

We have reviewed the decision on appeal and substantial evidence supports the Examiner's findings and conclusions that the employer's raising of the payroll practices issue was consistent with RCW 41.56.470, and therefore not an unlawful tactic associated with the negotiations for a successor contract. Thus, the union failed to establish that the employer breached its good faith obligations under RCW 41.56.030(4) or that it committed an unfair labor practice under RCW 41.56.140(4) or (1). We affirm the Examiner's order dismissing the complaint.

ANALYSIS

The Examiner found that "[s]eparate and apart from the negotiations for a successor contract . . . the employer ascertained during or about August 2004 that its historical payroll practices (which included a mid-month draw payment made without deductions) conflicted with federal law or regulations requiring collection of federal taxes from wage payments."³

The union argues that the employer knew that it had problems with the historical practice of a mid-month draw payment well before August 2004. The union argues that the concerns raised by the Washington State Auditor's Office about the mid-month draw payment had been raised nearly two years prior to the employer's belated bargaining demand in August 2002. The union also argues that at that time the employer received a "Management Letter" from the Auditor's Office recommending the employer should continue to consider options for implementing a time lag between the end of the payroll period and the pay date, and that the current system results in "some inefficiency." The union argues that the

³ Decision 9196-A, Finding of Fact 8.

"inefficiency" described in the letter had been an issue of concern to the employer for "quite a while."

While the record does indicate that the employer did have previous knowledge concerning an "inefficiency" problem raised by the State Auditor's Office, it does not support a finding that the employer had knowledge prior to August 2004 that the mid-month draw practice conflicted with federal Internal Revenue Service (IRS) law or regulations requiring collection of federal taxes from wage payments. There is substantial evidence in the record that supports the Examiner's finding that the employer ascertained during or about August 2004 that its historical payroll practices (which included a mid-month draw payment made without deductions) conflicted with federal law or regulations requiring collection of federal taxes from wage payments.

We also adopt the Examiner's legal conclusion that the employer's raising of the payroll practices issue because of its discovery in August 2004 of a conflict with IRS regulations requiring collection of federal taxes from wage payments was consistent with RCW 41.56.470, and was not an unlawful tactic associated with the negotiations for a successor contract; so the union failed to establish that the employer breached its good faith obligations under RCW 41.56.030(4) or that it committed an unfair labor practice under RCW 41.56.140(4) or (1).

NOW, THEREFORE, the Commission makes the following:

AMENDED FINDINGS OF FACT

The Findings of Fact issued by Examiner Walter M. Stuteville are AFFIRMED and adopted as the Findings of Fact of the Commission, except paragraph 4 which is amended as follows:

4. The employer and union were parties to a collective bargaining agreement which was in effect from April 1, 2000, through March 31, 2003. Although Article 24.3 of that agreement provided that the employer could re-open the agreement to negotiate a change of payroll practices, the employer did not exercise that right.

CONCLUSIONS OF LAW

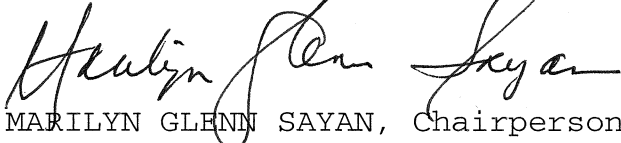
The Conclusions of Law issued by Examiner Walter M. Stuteville dismissing the above-captioned cases are AFFIRMED and adopted as the Conclusions of Law of the Commission.


ORDER

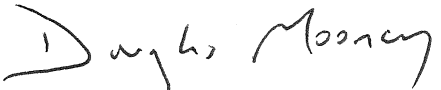
The Order issued by Examiner Walter M. Stuteville dismissing the union's complaint is AFFIRMED and adopted as the Order of the Commission.

Issued at Olympia, Washington, the 16th day of February, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


DOUGLAS G. MOONEY, Commissioner