

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
WASHINGTON STATE COUNCIL OF COUNTY)	CASE 12263-C-96-769
AND CITY EMPLOYEES, LOCAL 270)	
)	
For clarification of a bargaining)	DECISION 6748-B - PECB
unit of employees of:)	
)	
CITY OF SPOKANE)	ORDER OF COMMISSION
)	
)	

James C. Sloane, City Attorney, by Pat Dalton, Assistant City Attorney, appeared for the City of Spokane.

Randy Withrow, Staff Representative, appeared for the Washington State Council of County and City Employees.

This case comes before the Commission on an appeal filed by the City of Spokane (employer), seeking to overturn a summary judgment issued by Executive Director Marvin L. Schurke.¹ We dismiss the appeal as untimely.

Appeals are governed by WAC 391-45-350, which states as follows:

WAC 391-45-350 Appeals. An order issued under WAC 391-45-110(1) or 391-45-310 and any rulings in the proceedings up to the issuance of the order may be appealed to the commission as follows:

(1) The due date for a notice of appeal shall be twenty days following the date of

¹ City of Spokane, Decision 6748-A (PECB, 1999). The Executive Director allocated employees in the "Probation Officer I" and "Probation Officer II" classifications to the bargaining unit of City of Spokane employees represented by Washington State Council of County and City and City Employees, Local 270.

issuance of the order being appealed. The time for filing a notice of appeal cannot be extended. ...

[Emphasis by **bold** supplied.]

The Commission has strictly enforced the time limits for filing election objections and appeals, and has dismissed untimely appeals in numerous cases. See, for example, Valley Communications Center, Decision 6097-A (PECB, 1998), where a courier who was to deliver an appeal for an attorney arrived after the close of business on the due date, and City of Richland, Decision 6120-B (PECB, 1998), where counsel for a party blamed illness and holidays for delay in filing an untimely appeal. The Supreme Court of the State of Washington has similarly required strict compliance with time limits in a case arising out of Chapter 41.56 RCW. See, City of Seattle v. PERC, 116 Wn.2d 923 (1991).

The summary judgment in this case was issued on July 27, 1999. The deadline for an appeal was August 16, 1999. The employer did not file an appeal until August 18th, which was two days late.

The exercise of the Commission's authority under WAC 391-08-003 to waive the rule on time periods is dependent on effectuating the purposes and provisions of the applicable collective bargaining statute, and lack of prejudice.² Consistency in the application of our rules fulfills the charge of the Legislature that the Commission be "uniform" in its administration of public sector collective bargaining. RCW 41.58.005(1).

² The only instances where the Commission has waived the time limits for appeal have been where erroneous advice by agency's staff or unclear rules contributed to the late filing. See, City of Tukwila, Decision 2434-A (PECB, 1987), and Island County, Decision 5147-C (PECB, 1996).

NOW, THEREFORE, it is

ORDERED

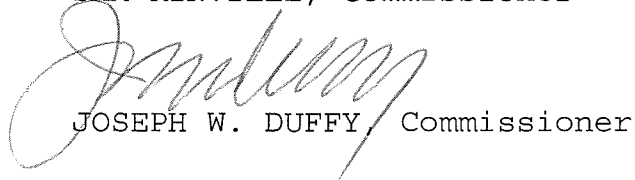
The appeal filed by the employer in the above-captioned matter is DISMISSED.

Issued at Olympia, Washington, on the 22nd day of September, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner