

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
GENERAL TEAMSTERS LOCAL NO. 174)	
For determination of a dispute)	CASE NO. 6112-D-85-56
concerning the union security)	
obligations of:)	
ROGER OVERBECK)	DECISION 2704 - PECB
Under a collective bargaining)	
bargaining agreement between)	
the petitioner and:)	FINDINGS OF FACT,
KING COUNTY)	CONCLUSIONS OF LAW
)	AND ORDER
)	
)	

Davies, Roberts, Reid and Wacker, by Bruce E. Heller, attorney at law, appeared on behalf of Teamsters Local No. 174.

Norm Maleng, Prosecuting Attorney, by John W. Cobb, Deputy Prosecuting Attorney, appeared on behalf of the employer.

On November 13, 1985, General Teamsters Local No. 174 (union) filed a petition with the Public Employment Relations Commission (PERC) seeking a ruling pursuant to Chapter 391-95 WAC concerning the obligations of Roger Overbeck under the union security provisions of a collective bargaining agreement between the union and King County. Pursuant to a notice issued on March 14, 1986, a hearing was held on April 15, 1986, before Examiner Frederick J. Rosenberry. Roger Overbeck, the employee involved, did not appear in person or by authorized representative at the hearing.

BACKGROUND

Roger Overbeck was hired by King County on April 10, 1981, as a field officer for the King County Animal Control Division. He has remained continuously employed in the same department since that time. In that position, he is within a bargaining unit represented by General Teamsters Local No. 174. When the petition in this proceeding was filed on November 13, 1985, the union and the employer were parties to a collective bargaining agreement which contained a union security clause, and Overbeck was among the employees obligated under those terms of the contract.

The record indicates that Overbeck joined the union and paid union dues and fees beginning with the month of May, 1981. Overbeck ceased paying union dues in 1983, although that fact was not discovered until much later.

In August, 1985, in the course of an audit of membership files, the union discovered that, unlike most of the employees in the bargaining unit, Overbeck had not authorized payroll deduction for his union dues. Additionally, it was determined that Overbeck had failed to tender his dues directly to the union, so that he had made no union dues payments since July, 1983.

The union sent a letter to Overbeck on August 14, 1985, by certified mail, notifying him of his union security obligation under the terms of the collective bargaining agreement covering his employment. That letter advised Overbeck that, unless his dues and fees were received by the union on or before September 2, 1985, the union would request that the employer discharge him. As a follow-up measure, the union had its business agent hand-deliver a copy of the letter to Overbeck on August 16, 1985 at Overbeck's work site.

Responding to the hand-delivered copy of the August 14, 1985 letter,¹ Overbeck sent a letter to the union under date of August 18, 1985, stating:

In August of 1985 I received a phone call from Vic Joblonski at my residence stating that I owed union dues.

In June of 1983 I verbally told Wayne Triplett at a Union 174 (sic) meeting at the Kent Shelter that I would assert my right of nonassociation with 174 based on my religious tenets and this was confirmed a week later by myself with a letter being sent to Wayne Triplett of local 174. Now after two or more years your local 174 claims monies owed to them after I have contributed to a charitable organization with no demands or correspondence for monies from 174 for over two years.

I have followed WAC 391-95-030 and RCW 41-56-122 (sic) to the letter. I don't expect to be harassed by 174 or its agents which would affect my job with King County Animal Control.

The union offered testimony that it did not receive such a letter from Overbeck in June, 1983, and that it was not aware of his claim of a religious-based right of non-association previous to the August 18, 1985 letter.

In order to investigate Overbeck's allegation of previous notification, and to evaluate his claim of a right of non-association, the union made a written request to Overbeck on

¹ The letter that the union mailed to the address provided by Overbeck was subsequently returned to the union by the post office on August 31, 1985 as "unclaimed". The record reflects that Overbeck's employer has attempted to send letters to him by way of certified mail, and has found that he fails to pick up certified mail from the post office. Therefore, the employer hand delivers letters to him.

September 4, 1985 for a copy of Overbeck's 1983 letter and the name of the charitable organization to which Overbeck had allegedly contributed in lieu of paying union dues. The union mailed a copy of that request, and also hand-delivered a copy to Overbeck at his place of work. Overbeck refused to accept hand-delivery of the letter, which was then left for him with his other work-related messages.

Overbeck did not respond to the union's September 4, 1985 request for information supporting his religious objection claim. Overbeck also did not comply with the union's instructions establishing a September 2, 1985 deadline for the payment of his past dues and fees. He continues to refuse to make the requested payments.

On November 14, 1985, Overbeck, the employer and the union were all notified by PERC that the union's petition had been docketed for processing.

On December 3, 1985, Overbeck filed a detailed response to the petition. Overbeck therein claimed that the dispute was between himself and the union, that PERC should not intervene in the matter, and that the union should resort to court action if it wished to proceed with the dispute.

The undersigned Examiner contacted Overbeck on February 20, 1986 and again on March 6, 1986, to suggest that a pre-hearing conference be conducted to identify the disputed issues, determine if there were any matters that could be stipulated, and establish a hearing date. Overbeck advised the Examiner of his view that PERC did not have jurisdiction in the matter. Overbeck did not want a pre-hearing conference to be held, he did not want the dispute scheduled for a hearing, and he indicated that he would not cooperate in the scheduling of a

hearing. Overbeck stated that he had more pressing personal matters to attend to, mentioning the preparation of a tax return and an agricultural field.

A notice was issued on March 14, 1986, setting the matter for hearing on April 15, 1986.

On March 18, 1986, the Examiner confirmed the substance of the previous telephone conversations in a letter to Overbeck with copies to the employer and union. The same letter cited the authorities used in determining that the dispute was properly before the Commission, advised Overbeck that he had failed to demonstrate good cause for dismissing the petition or unduly delaying the hearing, and advised Overbeck that the matter was being set for hearing.

The hearing was convened as scheduled. Overbeck did not appear. A recess was taken shortly after the hearing was called to order, during which the Examiner first became aware of a letter addressed to him from Overbeck and received on the preceding day (April 14, 1986) at the Olympia office of the Commission. That letter stated:

Per our phone conversations, and due to my working schedule, and as stated prior I would not be able to attend any meeting until feasible days are available during the months of June or July. Please refer to my first letter to Marvin L. Schurke² and provide the necessary documents to substantiate their demands and proper procedure. Also, you stated per our phone conversation that you had jurisdiction over this matter and to date I have not received the case law to substantiate this. When

² This reference was subsequently clarified as referring to Overbeck's December 3, 1985 letter to the Executive Director of the Commission.

you and the union provide this, a pre-hearing is in order.

During the same recess of the hearing, the Examiner was able to establish telephone contact with Overbeck and inquired as to his intentions concerning the hearing. Overbeck confirmed that he had received the notice of hearing. He responded, however, that he was not going to appear at the hearing for the reasons he had already provided. The Examiner offered to delay or continue the hearing in order to afford Overbeck the opportunity to appear, and advised Overbeck that his employer was willing to release him from work.³ Overbeck's response to the Examiner was that he had made a decision to not appear, and he specifically declined the Examiner's offer to delay or continue the hearing.

POSITION OF THE PARTIES

It is the union's position that PERC has jurisdiction in this matter; that there are no defects that would waive the enforceability of the union security provisions of the collective bargaining agreement; and that any objection that Overbeck may have to paying union dues is politically motivated and based on opposition to the manner in which the union conducts its business, rather than being based on bona fide religious tenets or teachings of a church or religious body of which he is a member. As evidence of the latter contention, the union refers to Overbeck's use of the collective bargaining agreement to submit grievances against the employer, his use of the unfair

³ Overbeck normally works a schedule consisting of four consecutive days on duty followed by four consecutive days off. There is evidence in the record that changes of the work schedule can be, and in Overbeck's case have been, accommodated.

labor practice provisions of the statute to file charges against the union and the employer, and his sponsorship of an effort to obtain a different union to represent the bargaining unit. The union contends that proceeding with the hearing regardless of Overbeck's absence was the appropriate course of action to follow, and that postponement was not warranted under the circumstances. The union contends that the record shows a pattern of non-cooperation by Overbeck, and it believes that Overbeck has attempted to prolong the scheduling of a hearing indefinitely. It notes that Overbeck received the notice of hearing, that he did not claim that he lacked ample time to prepare, and that he did not request a continuance. The union contends that the burden is on Overbeck to establish that he has a bona fide religious objection to paying union dues and fees, and that he has failed to meet this burden. Therefore, the union claims that Roger Overbeck is not entitled under RCW 41.56.122 to assert a right of nonassociation or to make alternate payments to a non-religious charitable organization.

As gleaned from his letters, Roger Overbeck maintains that he is entitled to the right of nonassociation under RCW 41.56.122 and Chapter 391-95 WAC, based on bona fide religious tenets or teachings of a church or religious body of which he is a member. Overbeck has also asserted claims that PERC does not have jurisdiction in this dispute, that the union must resort to the courts for any redress that it may seek; that there is no valid collective bargaining agreement between his employer and the union (and consequently no enforceable union security provision); that the union knew all along that he was asserting such a right; that the union knew that he was making a contribution to the Jewish community in lieu of union dues; that the union has not been specific enough in its monetary claim against him; and that the union has been remiss in waiting for more than two years in its attempts to collect back dues.

The employer takes the position that PERC has jurisdiction in this matter, and that the employer and the union are parties to a valid collective bargaining agreement that contains an enforceable union security provision. The employer also believes that proceeding with the hearing in Overbeck's absence was appropriate under the circumstances, and that postponement was not warranted. The employer maintains that Overbeck's allegations of a conflicting work schedule are without merit, and that he could have easily scheduled around his work schedule or taken leave.

DISCUSSION

The Statute and PERC's Jurisdiction

This case arises under statutory authorization of union security agreements in RCW 41.56.122(1), which provides:

RCW 41.56.122 COLLECTIVE BARGAINING
AGREEMENT--AUTHORIZED PROVISIONS. A
collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, that nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, that agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public

employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

Union security agreements are normally enforced by discharge of an employee who fails or refuses to tender the required dues and fees. Enforcement of the union security provisions of a collective bargaining agreement is a matter of contract, over which PERC does not assert jurisdiction. Clallam County, Decision 607-A (PECB, 1979); Pierce County, Decision 1671-A (PECB, 1984); Pierce County, Decision 1840-A (PECB, 1985).

Administration of the religious-based right of nonassociation guaranteed by the statute is expressly within the jurisdiction of PERC under RCW 41.56.122(1). Pursuant to its rule-making authority conferred by RCW 41.56.090, the Commission has adopted rules in Chapter 391-95 WAC for the processing of disputes concerning assertion of the right of nonassociation. Those rules include:

WAC 391-95-070 UNION SECURITY--FILING OF DISPUTE WITH COMMISSION. In the event of a disagreement between an employee and his or her exclusive bargaining representative as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

The union has filed such a proceeding. Overbeck's December 3, 1985 letter addressed to the Executive Director of the Commission contains acknowledgement that he is an employee of King County, acknowledgement that he is the employee affected by the union's petition, and responses to other points raised in the union's petition.

Although Overbeck contends, generally, that PERC lacks jurisdiction in the instant matter, he has not come forth with any evidence or any detailed arguments supporting such a claim. Challenges to PERC's jurisdiction in cases of this nature have been rejected in a number of proceedings arising under both the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, and the similar provisions of the Educational Employment Relations Act, Chapter 41.59 RCW. Mukilteo School District, Decision 1122-A (EDUC, 1981); Pierce County, Decision 1840-A (PECB, 1985). The Examiner sees no basis to reach a different conclusion here.

The Collective Bargaining Agreement

Responding to Overbeck's claim that there is no valid collective bargaining agreement, the employer and the union have stipulated that they were parties to a collective bargaining agreement that was in effect when the petition in this case was filed, and that the agreement contained a valid union security clause. A copy of the contract received in evidence has been examined and appears to comport with the stipulation of the employer and union.

Overbeck has not produced any evidence that would contradict the stipulation tendered by the employer and union, nor has he initiated any action before the Commission to challenge the validity of the union security obligation imposed upon him by

the contract. Compare, Mukilteo School District, Decision 1122, 1122-A (EDUC, 1981). Consequently there is no reason for the Examiner to believe that there is a defect in the labor agreement that would render the union security clause void.

Union Notification Of Past Dues

Overbeck claims that a union letter setting forth the amount of past dues and fees owed by him is deficient, because it does not provide documentation as to notice of mailing, is not accompanied by an affidavit of service by a person not a party to the action, and does not properly set forth the months and years for which sums of money are requested. Again, he has failed to provide any evidence supporting his contention.⁴

There is no obligation on the part of the union to comply with formal rules of service applicable in the courts. The less onerous obligations of service in administrative proceedings are set forth in WAC 10-08-110(2) and (3). The use of certified mail and follow-up by hand delivery are more than is required in administrative proceedings, and indicate that the

⁴ The letter to which Overbeck refers is a union form letter notifying the recipient that, under the terms of a collective bargaining agreement for the unit in which the employee is employed, there is a union security clause that requires the tendering of a uniform initiation fee and dues. The letter advises the recipient that, unless the dues and fees arrearages are tendered by a specified date, the union will request that the employer discharge the recipient. The form letter contains blank spaces where the amounts of past dues and fees are entered. Those blank spaces were filled in on the letter sent to Overbeck, setting forth the amount of past dues and fees owed by Overbeck. The letter to Overbeck does not contain the date on which it was prepared, but contains notations that indicate it was sent to Overbeck by certified mail on August 14, 1985, and was followed up by hand delivery on August 16, 1985.

union has exercised a reasonable attempt to notify Overbeck of his arrearages under the union security provision. Overbeck cannot make himself inaccessible to employment-related correspondence, and then complain of a lack of notice. To the contrary, he does so at his own peril.

Even if the union's August 14, 1985 letter is subject to criticism for setting forth the amount due in summary form, the record indicates that Overbeck followed-up on the letter and had notice of the details. The union's business office cashier credibly recalls that, in late 1985 or early 1986, Overbeck contacted the union office by telephone. During the course of that conversation, Overbeck's dues record and the amount of past dues and fees that had been levied against him were reviewed. Overbeck wanted to know how much he had paid and how much he owed, and he was provided a detailed explanation. The information provided in that contact, along with the contents of the union's initial letter, provided Overbeck with the information necessary to verify the accuracy of the union's monetary claim against him. There is no allegation that the union's mathematical calculations are incorrect. Although the union's membership monitoring system may be of questionable efficiency, such a defect does not reduce or eliminate Overbeck's obligations under the union security provision for the month of November, 1985, when this case was filed.

Overbeck's Previous Contact with the Union

Wayne Triplett was the secretary-treasurer, chief administrative officer and person in charge of the day-to-day operation of the local union from 1983 to 1986. He testified that he is acquainted with Overbeck, having first met him in 1983 while the collective bargaining agreement between the union and King County was being negotiated. Overbeck, accompanied by two

co-workers, stopped by the union office to provide input on the bargaining. As Triplett recalls, Overbeck urged the strengthening of employee rights in the contract, and suggested that the contract provide more opportunities for training. To the best of Triplett's recollection, there were two other occasions when he had contact with Overbeck. Both were in early 1983, and both were in conjunction with the union contract negotiations with King County. Triplett also recalls that Overbeck was unhappy with the performance of the union; that he complained about the representation provided by the union; and that Overbeck was an active participant in bargaining unit matters, acting as though he was a spokesman for the employees in the bargaining unit. In the context of those contacts, Triplett maintains that Overbeck at no time made mention of a religious objection to being a member of the union or paying union dues.

Overbeck's December 3, 1985 response to the petition enclosed a document purporting to be a copy of a letter dated June 30, 1983, addressed to Wayne Triplett, advising the union of Overbeck's religious objection to paying dues. That document states:

Reaffirming our last conversation, I feel that nonassociation with local 174 due to my religious beliefs and with donations to the Jewish community will have a far more reaching effect on my faith as a person in contributions to the community. (sic)

Overbeck maintains that the union received his June, 1983, letter and failed to respond, but he has offered no evidence authenticating the letter or corroborative support for his claim that the union received it.

Triplett, on the other hand, maintains that neither he personally nor the union received the June 30, 1983 letter that Overbeck claims that he submitted, or any other notification of a desire by Overbeck to assert a right of nonassociation until the union received Overbeck's August 18, 1985 letter.

Vic Jablonski, the union business agent that calls on the King County animal control bargaining unit, also has had contact with Overbeck on different occasions. Jablonski testified that at no time has Overbeck ever raised with him a religious objection to paying union dues.

The union provided testimony on its policy for dealing with situations in which a bargaining unit employee makes a written claim of a religious objection to paying union dues. Such matters are forwarded to the secretary-treasurer for follow-up investigation, and copies are provided to all of the union employees who would have any dealings with collection of union dues, in order to avoid any violations of law. Under these circumstances, the Examiner is unable to credit Overbeck's unsworn claim, by letter, that the issue of nonassociation was raised with the union in 1983.

Non-compliance with Chapter 391-95 WAC

Notwithstanding the union's request, Overbeck has failed or refused to provide the union with the name and address of the non-religious charitable organization that he claims to have been contributing to, or the names and addresses of one or more non-religious charitable organizations to which he is prepared to make alternate payments in lieu of the payments required by the union security provisions of the collective bargaining agreement. The union is entitled to such information under WAC 391-95-030.

Overbeck's December 3, 1985 response to the petition enclosed what appears to be a copy of the itemized deduction schedule from his federal income tax return for the year 1984. Overbeck has circled the section entitled "contributions you made" and the figure "\$412.00". Such a disclosure by Overbeck does not satisfy the requirements of RCW 41.56.122 or WAC 391-95-030. Overbeck's reference to donations to the Jewish community does not appear to meet the requirement that the alternate payment be to a non-religious charitable organization. Overbeck has thus failed to provide information essential to a claim that his donations have met the required statutory standard.

Overbeck's Failure to Appear at the Hearing

Overbeck's absence from the hearing in this matter was the result of a conscious decision on his part. He never requested a continuance in order to allow more time for preparation or witness availability, and has not demonstrated any other good cause for failing to appear. His failure to appear is consistent with a pattern of a lack of cooperation, and he must face the consequences of such a course of action. A party which absents itself from a hearing does so at its peril. City of Richland, Decision 279-A (PECB, 1978), aff. 29 Wn.App 599 (Div. III, 1981), cert. den., 96 Wn.2d 1004 (1981). The case must be decided on such record as is available.

Religious Basis for Nonassociation

The Commission has repeatedly held that a person claiming exemption from a union security obligation on the basis of personally held religious beliefs must meet the burden of presenting convincing evidence demonstrating both his or her religious objection to union membership and that the religious nature of the objection is genuine and in good faith. See:

Central Valley School District, Decision 925-B (EDUC, 1984); Edmonds School District, Decision 1239-A (EDUC, 1983). In order to exercise the right of nonassociation, it is mandatory that there be a nexus between union membership and religious belief. However seriously held, if opposition is of a political or secular policy nature rather than of a religious nature, the exemption will not be granted. City of Seattle, Decision 2086 (PECB, 1985); North Thurston School District, Decision 2433 (EDUC, 1986).

The union argues that Overbeck's objection to the union is one of political motivation, rather than being based on bona fide religious tenets or teachings. In support of this argument, the union cites Overbeck's past history of dealings with the union, which includes a number of grievances, unfair labor practice charges and a representation petition.

The union processed five separate grievances for Overbeck, alleging employer violations of the collective bargaining agreement. The grievances were filed in January and February, 1983. The subjects of those grievances included an undesirable work shift, an undesirable work assignment, pass-over for training, and a claim for compensatory time.

Overbeck was apparently unhappy with the disposition of his grievances, because he filed a complaint with the Public Employment Relations Commission on February 18, 1983, alleging that both King County and Teamsters Local 174 had committed unfair labor practices in connection with those grievances. The complaints were subsequently dismissed by the Executive Director under the preliminary ruling procedures of WAC 391-

45-10, for failure to state a cause of action. King County, Decisions 1617 and 1617-A, (PECB, May 4, 1983)⁵.

On May 9, 1983, the union received a copy of a representation petition that had been filed with the Commission.⁶ Although the term "decertification" was used, the stated purpose of the petition was not to de-unionize the bargaining unit, but to charge bargaining representatives. The petition stated, in relevant part:

During 1983 and 1984 and the years to come we will need an aggressive and knowledgeable union to conduct our negotiation in contract form and the handling of our grievances and union business.

. . . In order for us to change unions a majority of the Animal Control Officers must elect to do so....

Roger Overbeck submitted the petition to the Commission and was identified as the person to contact for its processing.⁷

⁵ The Executive Director concluded that the complaint stated only a "violation of contract" claim as to King County, as to which the Commission does not assert jurisdiction. Overbeck's charge against the union was taken to be a claim that it had failed to meet its duty of fair representation in the processing of Overbeck's contractual grievances, as to which the Commission does not assert jurisdiction. Overbeck was allowed a period of fourteen (14) days in which to amend the complaint to state a cause of action. No amendment was filed, and the complaint was subsequently dismissed.

⁶ The petition was docketed by PERC as Case No. 4630-E-83-854.

⁷ The petition was not accompanied by the required showing of interest, and a letter was addressed by the Executive Director to Overbeck, giving the petitioner seven (7) days in which to satisfy the

The union reasons that Overbeck's grievances, his unfair labor practice charges and his filing of a representation petition seeking a change to a more aggressive union are all indications that Overbeck does not have a religiously-motivated desire to not associate with Local 174, but rather a political opposition to the union. The union's inferences are well taken. Overbeck's activities in the period immediately preceding the time when he first claims to have stated a religiously-motivated right of nonassociation are certainly inconsistent with any claim that he is opposed to all unions.

Overbeck has, of course, failed to make any showing of a religious nexus for his desire to disassociate with the union. In his unauthenticated letter of June 30, 1983 and subsequent correspondence, Overbeck has merely asserted a right of nonassociation due to religious beliefs, without providing necessary explanation. In evaluating the sincerity of Overbeck's religious objections, the Examiner takes into consideration his past relations with the union and his exercise of union related activity. When that history, and particularly the purpose of the decertification petition that he filed with PERC (the intent of which was to install a different, more militant union) is considered, there is a strong inference that his claim of religious basis for his assertion of a right of nonassociation is pretextual. The likely alternatives that are available include secular dissatisfaction with the incumbent union, and the avoidance of a considerable liability for back union dues and fees. This inference is further supported by Overbeck's failure to make any claim of religious revelation occurring subsequent to his past union membership and activity.

showing of interest requirement or face dismissal. The showing of interest evidence was not provided, and the petition was subsequently dismissed. King County, Decision 1647 (PECB, June 1, 1983).

Disregarding his activities during the period immediately preceding the time when he ceased paying union dues, there is no indication that Overbeck underwent a bona fide religious revelation prior to the August - November, 1985 period when the issue was raised by the union and these proceedings were initiated.

Administration of the Union Security Provision

In the presentation of its case in this proceeding, the union sought, with the concurrence of the employer, a ruling on the proper administration of the union security provision in Overbeck's case. Assuming a ruling in its favor on the "right of nonassociation" issue, the union theorizes that, because Overbeck has failed to pay dues or allow their escrow during the pendency of this proceeding he is not immune from immediate discharge or other action based on his union security obligation. Neither the union, nor Overbeck, nor the employer submitted evidence supporting or opposing such a conclusion or submitted a brief on the issue.

The record does not reflect that the union has made a request of the employer for Overbeck's discharge, so any ruling on the matter would be in the abstract, and without benefit of input from the employer or Overbeck. The question posed by the union may well, at least in part, go beyond the limits of jurisdiction outlined by the Commission in Clallam County, supra. To the extent that it calls for interpretation of PERC's rules, the following can be noted: The escrow of disputed funds is conditionally provided for in WAC 391-95-130, which states:

WAC 391-25-130 UNION SECURITY--ESCROW OF
DISPUTED FUNDS BY EMPLOYER. Upon being
served with a copy of a petition filed
under WAC 391-95-070, the employer shall
preserve the status quo by withholding and

retaining the disputed dues for periods during the pendency of the proceeding before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular passbook savings accounts. While the proceedings remain pending before the commission, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations. This provision shall be applicable to employees covered by chapter 41.56 RCW only upon the employee submitting to the employer a signed authorization for the deduction.

Under Chapter 41.56 RCW, the escrow of disputed funds is restricted to employees who submit written authorization for dues check off, such authorization being consistent with Chapter 49.12 RCW which, with limited exceptions, prohibits an employer from making payroll deductions without employee authorization. WAC 391-95-310 states:

WAC 391-95-310 IMPLEMENTATION. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the employer shall release any funds (together with accumulated interest) held in escrow under WAC 391-95-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to make alternative payments, the employer shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The employer and the exclusive bargaining representative shall allow the affected employee a grace period of not less than thirty days

following the agreement or final order of the commission to correct any arrearages.
(Emphasis supplied).

WAC 391-95-310 thus specifically requires a period of forbearance subsequent to a final order by PERC in a "right of nonassociation" case.

FINDINGS OF FACT

1. King County is a political subdivision of the state of Washington, and is a public employer within the meaning of RCW 41.56.030(1).
2. General Teamsters Union Local No. 174 is an employee organization within the meaning of RCW 41.56.030(3), which has been recognized as the exclusive bargaining representative of employees of King County in the Animal Control Division.
3. Roger Overbeck has been employed by King County since 1981 as a field officer in the Animal Control Division, and is within the bargaining unit represented by Teamsters Local 174.
4. King County and Teamsters Local 174 were parties to a collective bargaining agreement effective from January 1, 1983 to December 31, 1985 which contained a union security provision requiring bargaining unit employees to become and remain members in good standing of the union.
5. Roger Overbeck discontinued tendering his union dues in July, 1983 and did not authorize a payroll deduction for their payment.

6. In response to a demand made by the union in August of 1985 for compliance with the union security provisions of the collective bargaining agreement, Roger Overbeck asserted a right of nonassociation pursuant to RCW 41.56.122(1). Overbeck made no claim of a specific denominational tie, although he claimed that he had satisfied his statutory obligation by making donations to the Jewish community.
7. Teamsters Local 174 initiated these proceedings before the Public Employment Relations Commission pursuant to Chapter 391-95 WAC to obtain a determination on the claim of a right of nonassociation asserted by Roger Overbeck. The petitioner contends that Overbeck's objection to association with the union is politically motivated, and is not based on bona fide religious tenets or teachings of a church or religious body of which he is a member.
8. Roger Overbeck has not demonstrated that his objection to association with Teamsters Union Local 174 is based on bona fide personally held religious tenets or teachings of a church or religious body of which he is a member.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. Roger Overbeck has not sustained his burden of proof to establish his claim of a right of non-association based on bona fide religious tenets or teachings of a church or religious body, and is not entitled under RCW 41.56.122 to make alternate payments in lieu of payments under the

union security provisions of the collective bargaining agreement covering his employment with King County.

ORDER

1. If no petition for review of this order is filed with the Public Employment Relations Commission within twenty (20) days following the date of this order, King County and Teamsters Local 174 shall, in accordance with WAC 391-95-310, allow Roger Overbeck a grace period of not less than thirty (30) days following the date of this order to correct any arrearages, prior to enforcing the union security provision according to its terms.
2. If a petition for review of this order is filed with the Public Employment Relations Commission, such filing shall automatically stay the effect of this order pending a ruling by the Commission.

DATED at Olympia, Washington, this 8th day of June, 1987.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


FREDERICK J. ROSENBERY, Examiner

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-95-270.