

State – Health Care Authority, Decision 12335 (PSRA, 2015)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

CALEB TONN

Involving certain employees of:

STATE – HEALTH CARE AUTHORITY

CASE 27116-E-15-3926

DECISION 12335 - PSRA

ORDER OF DISMISSAL

On March 26, 2015, Caleb Tonn filed a petition to decertify a bargaining unit of mixed-class employees at the Washington State Health Care Authority. That bargaining unit is described in *State – Health Care Authority, Decision 11754 (PSRA, 2013)*, and is currently represented by the Washington Federation of State Employees (WFSE).

Agency staff compared the showing of interest supplied by Tonn against the list of employees provided by the employer and determined that the showing of interest supplied by Tonn was deficient. Because Tonn is precluded at this time from supplementing the showing of interest to cure the defect, his petition must be dismissed.

BACKGROUND

There are two bargaining units of non-supervisory employees at the Health Care Authority. One bargaining unit is the mixed-class bargaining unit. This bargaining unit was created by the Legislature when it transferred the Medical Purchasing Administration to the Health Care Authority from the Department of Social and Health Services. The mixed-class bargaining unit contains employees in various job classes including some, but not all, of the employees working at the Health Care Authority who perform information technology work. Tonn is currently an unrepresented information technology employee who is not included in any bargaining unit. The

other non-supervisory bargaining unit at the Health Care Authority contains employees in the Health Insurance Benefit Specialists job class. *State – Health Care Authority, Decision 9725 (PSRA, 2007)*.

The mixed-class bargaining unit that is the subject of Tonn's petition is also the subject of a separate petition that was filed by WFSE on August 6, 2014. That petition sought to merge the mixed-class bargaining unit with the bargaining unit of Health Insurance Benefit Specialists. Case 26665-E-14-3886. The parties have been working with agency staff to redefine the scope of the merged bargaining unit. Tonn's position would be included in the proposed merged bargaining unit. Processing of WFSE's representation petition was placed on hold pending the outcome of the instant proceedings.

On April 2, 2015, WFSE filed a motion to dismiss Tonn's representation petition. WFSE contended that Tonn is not a bargaining unit employee who has standing to file a decertification petition. WFSE also asserted that Tonn's petition was defective because it only sought to decertify a portion of the existing mixed-class bargaining unit.

The parties were invited to provide responses to WFSE's motion. Based upon these responses, the employer was asked to provide the full list of employees included in the existing bargaining unit and the proposed merged bargaining unit. The employer provided the lists of employees. The existing mixed-class bargaining unit has 480 employees. Thirty percent of that bargaining unit is equal to 144 employees. The proposed merged bargaining unit will have 543 employees. Thirty percent of that bargaining unit is equal to 163 employees.

Agency staff reviewed the showing of interest submitted by Tonn against the lists of employees.¹ In both instances, the showing submitted by Tonn was below the 30 percent threshold required for this agency to process the petition.

¹ Due to the timing of the two petitions, agency staff compared the showing of interest against both lists of employees to provide Tonn the greatest opportunity to demonstrate that he submitted a showing of interest that exceeded the 30 percent threshold.

Because Tonn's petition was not properly supported, a deficiency notice was issued and Tonn was given an opportunity to explain why his petition should not be dismissed as procedurally insufficient. Tonn did not respond to the deficiency notice.

DISCUSSION

This agency is responsible for administering all union representation elections involving state civil service employees, and adjudicates all disputes that result from those elections. RCW 41.80.080. This agency also has the authority to adopt rules to process elections. *Id.* All representation petitions processed by this agency are governed by the provisions of Chapter 391-25 WAC.

Representation petitions must be supported by a showing of interest demonstrating that at least 30 percent of the employees in the bargaining unit support the purpose of the petition. WAC 391-25-110. This requirement is mandatory, not discretionary. *State – Labor and Industries, Decision 9052 (PSRA, 2005)*. The 30 percent requirement provides evidence that at least a significant minority of employees desires a change as to invoke the jurisdiction and resources of this agency. The showing of interest must be submitted to the agency under the same timeliness standards applicable to the petition. WAC 391-25-110.

Tonn's petition is not supported by at least 30 percent of the employees in the existing mixed-class bargaining unit. Additionally, Tonn cannot supplement his petition with additional showing of interest cards. The existing agreement between the state and WFSE expires on June 30, 2015, and the window period for filing a decertification petition closed on April 2, 2015. RCW 41.80.080(4)(b); WAC 391-25-036. Because the showing of interest supporting Tonn's petition needed to be submitted by April 2, 2015, and the petition was deficient, Tonn has no mechanism for curing the defect in his petition and it must be dismissed.

NOW, THEREFORE it is

ORDERED

The representation petition filed by Caleb Tonn in the above-captioned matter is DISMISSED.

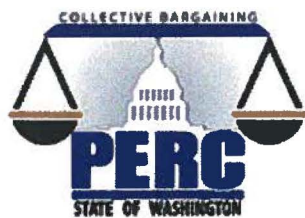
Issued at Olympia, Washington, this 18th day of May, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "M. Sellars", is written over the printed name of the Executive Director.

MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless an appeal is filed with the Commission under WAC 391-25-660.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: /s/ VANESSA SMITH

CASE NUMBER: 27116-E-15-03926 FILED: 03/26/2015 FILED BY: PARTY 2
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