STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS UNION, LOCAL 252, Complainant, vs. CITY OF WINLOCK, Respondent.	)	CASE 9827-U-92-2239 DECISIONS 4784-A - PECB DECISION OF COMMISSION

Davies, Roberts & Reid, by Kenneth J. Pedersen, Attorney at Law, appeared on behalf of the union.

Davies, Pearson, by Peter T. Petrich, Attorney at Law, appeared on behalf of the employer.

This case comes before the Commission on a petition for review filed by the Teamsters Union, Local 252, seeking to overturn a decision issued by Examiner Rex L. Lacy, in regard to the discharge of Terry Williams.[1]

BACKGROUND

The City of Winlock (employer) is an incorporated municipality, located in Lewis County. Operating under the Optional Municipal Code, Title 35A RCW, the city is governed by an elected mayor and a five-member city council. Kenneth Crocker was elected as mayor in the general election held in the autumn of 1989, and commenced his term of office in January of 1990.[2]

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[1] City of Winlock, Decisions 4783, 4784 (PECB, 1994).

[2] Pursuant to the Optional Municipal Code, the mayor is the statutory head of the Police Department.

During the relevant time period, the employer's workforce consisted of eight positions: Police chief, police officer, public works superintendent, water/sewer operator, clerk-treasurer, assistant clerk, court clerk, and a laborer. Forest McPherson was hired as chief of police in 1983. Terry Williams began work with the employer in October of 1979 as a reserve police officer, and became a full-time officer in March of 1984. Until the matter at issue, Williams had never been disciplined.

It had been the practice for the employer to work on its budget every year beginning around September. The city council solicited "wish" lists from the departments, and employees used this as an opportunity to give input regarding salaries and benefits.

During the budget process in 1989, Williams contacted Mike Mauermann, business agent of the Teamsters Union, Local 252 (union) to seek advice in working out a different process regarding employee concerns. Williams set up a meeting between employees and Mauermann. Because other employees vacillated, and pending issues were resolved, the meeting did not materialize. Williams contacted Mauermann on another occasion regarding similar issues, but no organizational activity developed from those contacts until the autumn of 1991.

During budget time in 1991, the city council asked the employees to check into options regarding medical insurance. Williams gave Mauermann's phone number to Michael Risley, a water and sewer employee, and Risley contacted Mauermann. Williams, Risley, and other employees began to talk with Mauermann about insurance programs available through the union. As a result of those discussions, the union filed a representation petition with the Commission on November 15, 1991, seeking a wall-to-wall bargaining unit of City of Winlock employees. The employer objected to the inclusion of nearly all of the classifications sought by the union in the petitioned-for bargaining unit. It asserted, inter alia,

that the police chief should be excluded as an exception to the definition of "public employee" in RCW 41.56.030, and that the patrolman classification held by Williams was a "uniformed" employee with a separate community of interest.[3]

Williams arranged to have Mauermann appear at a city council meeting held on December 2, 1991, to discuss employee insurance. At that meeting, Williams also spoke in favor of the union insurance plan. On that same date, Williams was notified that his work schedule would be changed to split shifts as well as split days off.[4] McPherson had been notified of a similar change a few weeks earlier. According to a schedule that took effect on December 9, 1991, Williams and McPherson were to rotate their shifts every week.

Crocker discharged McPherson on January 11, 1992. The union filed an unfair labor practice complaint on January 16, 1992, alleging the employer discriminated against McPherson for engaging in protected union activity by changing his work shifts, demoting him, stripping him of his police car, and discharging him. Based on city council action, however, City Attorney William Hillier brought Crocker and McPherson together to discuss the matter and both signed an agreement whereby McPherson returned to his job shortly thereafter.

Terry Williams' father was the elected mayor of Mossyrock, and had been involved with the city of Winlock over the years in a variety of activities. For example: The elder Williams was involved with the construction of the Winlock City Hall. Terry Williams was his

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[3] See, City of Winlock, Decision 4056 (PECB, 1992).

[4] Since March of 1984, when he became a full-time police officer, Williams had worked a 7:00 p.m. to 3:00 a.m. shift. He started with a schedule of Mondays and Tuesdays off, and later went to a schedule with Sundays and Mondays off.

father's assistant instructor for a Hug-a-Tree program provided to Winlock children on a yearly basis,[5] and both Terry Williams and his father were involved in Lewis County search and rescue activities.

At an executive session of the city council on April 27, 1992, Crocker told McPherson that he should consider discharging Williams for misuse of city phones. McPherson told Williams that the council wanted to fire him, and brought Williams into the council meeting. Without showing him the actual phone bills, Crocker confronted Williams with allegations that he made long-distance personal phone calls using city resources, and specifically asked Williams about the phone calls to one number. Williams admitted the calls at issue were made to his father's home in Mossyrock, and said he believed they would have had a business purpose. Williams did acknowledge that it is hard to talk to one's father on the phone without getting into personal matters. Williams asked the council if they wanted him to pay for the calls. No action was taken at that meeting.

Before and after the April 27, 1992 meeting, the city council was informed of other business reasons for calls to Williams' father. McPherson told the council and Crocker that he had seen Williams use his credit card on occasion to call his father, and that a lot of calls concerned search and rescue activities. McPherson related to them that at one time, in the presence of the previous mayor, Williams was using his credit card to call his father, and the mayor told him if it is search and rescue, he did not have to use his card. McPherson also stated that he may have made a good percentage of the calls when trying to locate Terry Williams. It was discussed that some of the telephone calls could have related to the Hug-a-Tree program, as well as joint projects of the cities.

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[5] The Hug-a-Tree program teaches children to stay in one spot and hug a tree if they get lost.

A meeting was arranged for the following day between Williams, McPherson, and Hillier.

Williams and McPherson visited Hillier's office on April 28, 1992. Hillier advised them he needed more information, that all the documentation would be provided to Williams, and that a pre-termination hearing would be held if it went that far. During that meeting, Hillier also informed Mayor Pro Tem Cy Meyers that a pretermination hearing would be necessary.

Approximately a week later, Meyers directed McPherson to try to get a resignation from Williams. Meyers stated that if Williams would resign, he would likely get a letter of recommendation. Williams chose not to resign, and was placed on administrative leave. Williams submitted a written request for a pretermination hearing to Crocker.

After a hearing on the representation case, Executive Director Marvin Schurke found an appropriate bargaining unit to include all full-time and regular part-time employees of the City of Winlock, excluding elected officials, officials appointed for a fixed term, confidential employees, and supervisors. The unit included the positions of police chief and police officer, as well as four others. On April 29, 1992, a cross-check was directed.[6]

On May 8, 1992, Williams met with Crocker and Meyers. Crocker denied Williams' request for a pretermination hearing, handed Williams a stack of phone bills, and advised Williams that his status was being changed to termination. Also on May 8, 1992, the employer filed an objection, challenging the Executive Director's inclusion of police chief in the bargaining unit. The results of the cross-check, issued on May 15, 1992, showed the union was entitled to certification as exclusive bargaining representative.

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[6] See, City of Winlock, Decision 4056, supra.

On June 3, 1992, the union filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the employer had violated RCW 41.56.140(1), by discharging Williams in reprisal for exercising his rights of protected activity. On June 8, 1992, Crocker discharged McPherson for the second time.

On June 17, 1992, the Commission issued an interim certification of the bargaining unit.[7] The Commission later affirmed the Executive Director's decision to include the police chief, and overruled the employer's objection.[8]

On June 24, 1992, the union filed additional unfair labor practice allegations concerning the second discharge of McPherson. The two matters were consolidated for hearing.

Examiner Rex L. Lacy held a hearing on October 22, 23 and 26, and November 2, 1992. In a decision issued on September 29, 1994, Examiner Lacy sustained the unfair labor practice complaint as to McPherson,[9] but dismissed the complaint concerning the discharge of Williams. The employer did not file a petition for review. The union filed a petition for review in the case concerning Williams, thus bringing this matter before the Commission.

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[7] City of Winlock, Decision 4056-A (PECB, 1992).

[8] City of Winlock, Decision 4056-B (PECB, 1993).

[9] City of Winlock, Decisions 4783 and 4784 (PECB, 1994). Examiner Lacy found that McPherson's union activities protected by Chapter 41.56 RCW were a substantial motivating factor in the employer's decision to discharge him, so that the employer's action was an unfair labor practice under RCW 41.56.140(1). McPherson was reinstated and made whole with back pay and benefits in accordance with the Examiner's order issued on September 19, 1994.

POSITIONS OF THE PARTIES

The union argues that the discharge of Williams was pretextual, and that the real reason for the employer's action was because of his protected union activities. It contends that, under Wilmot v. Kaiser Aluminum, 118 Wn.2d 46 (1991), Williams' union activity was a substantial motivating factor in the employer's decision to discharge him. The union asserts that the Examiner erred in finding that Williams changed his story. The union argues that Williams consistently maintained the phone calls were all business-related, while admitting that a portion of the calls may have involved personal matters. The union also claims that Williams never retracted his offer to compensate the city for the telephone calls. The union contends that Williams had an exemplary work record, with no history of prior discipline. It claims that the employer's failure to provide a Loudermill hearing is another illustration of the summary nature of Williams' termination.

The employer argued the case before the Examiner under the Wright Line test,[10] and did not file a brief on the petition for review. The employer contends Williams admitted making personal calls, then changed his position and insisted that the calls were all business-related. This change of story, the employer contends, was what bothered the city council enough to call for his discharge. The employer claims that Williams was caught using city property for non-city business, then recanted his admission, and the mayor and council had no choice but to terminate his employment.

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[10] Wright Line, 251 NLRB 1083 (1980), is cited in City of Olympia, Decision 1208-A (PECB, 1982). Under that test, the burden of proof is shifted in a two-stage analysis. If the employee or union put on a prima facie case, the burden of proof shifts to the employer to establish valid reasons for its action. In formulating that approach, the NLRB relied on Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274 (1977).

DISCUSSION

The Applicable Legal Standard

The employer is subject to the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, which includes:

> RCW 41.56.040 Right of employees to organize and designate representatives without interference. No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the **free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.**
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> ...
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> RCW 41.56.140 Unfair labor practices for public employer enumerated. It shall be an unfair labor practice for a public employer:
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> (1) **To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;**
>
> (2) To control, dominate or interfere with a bargaining representative;
>
> (3) To discriminate against a public employee who has filed an unfair labor practice charge;
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> (4) To refuse to engage in collective bargaining.

[Emphasis by **bold** supplied.]

In Educational Service District 114, Decision 4631-A (PECB, 1994), the Commission adopted a "substantial motivating factor" test for determining discrimination allegations. Under that formula, the burden of proof does not shift. The complainant must establish a prima facie case of discrimination, and the employer only has to articulate non-discriminatory reasons for its actions. The burden is then on the complainant to prove, by a preponderance of the evidence, that the discriminatory action was in retaliation for the

employee's exercise of statutory rights. That may be done by showing that the reasons given by the employer were pretextual or by showing that union animus was a substantial motivating factor behind the employer's action.[11]

The Prima Facie Case

To make out a prima facie case under the substantial motivating factor test, a complainant needs to show:

1. The exercise of a statutorily protected right, or communicating to the employer an intent to do so;

2. That he or she was discriminated against; and

3. That there was a causal connection between the exercise of the legal right and the discriminatory action.

Union Activities of Williams -

Williams was involved in protected union activity from time to time before his discharge. On two separate occasions prior to the 1991 organizing efforts, Williams contacted the union's business agent on behalf of city employees, seeking advice about working with the employer on employee concerns. He became particularly visible as a union supporter when the employees were seeking insurance options in the autumn of 1991. Williams found Mike Mauermann's phone number and gave it to fellow employee Mike Risley.

Although Risley made the first telephone contact with Mauermann in the autumn of 1991, Williams attended Mauermann's initial meeting

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[11] This test was set forth in Wilmot v. Kaiser Aluminum, 118 Wn.2d 46 (1991), and Allison v. Seattle Housing Authority 118 Wn.2d 79 (1991). Both cases involve statutes that parallel collective bargaining statutes in making employers' retaliation illegal where employees exercise statutory rights. Allison specifically rejected Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274 (1977), used in Wright Line, upon which the employer relied. See, also, City of Federal Way, Decisions 4088-B, 4495-A (PECB, 1994).

with employees in October, and openly spoke in favor of the union. He also signed an authorization card at that meeting, as did other employees in attendance.

Williams' union activity was open and unconcealed, and the record shows the employer was fully aware of his interest in the union. Williams called Mauermann regarding being placed on the city council's agenda for their December 2, 1991 meeting, and both Mauermann and Williams spoke in favor of the union insurance plan at that meeting. Crocker and the council were in attendance at that meeting. Michael Risley testified that the organizing activity was a secret at first, but that it became obvious after a point. The "small plant doctrine" also supports an inference that the employer had knowledge of Williams' union activity.[12] Considering the size of the employer's workforce, it would be very difficult for anyone to maintain secrecy on an employment-related matter for long. In light of the foregoing, we find the first requirement of a prima facie case has been met.

The Discriminatory Action -
The second element of a prima facie case was also established here. It is clear Williams was discharged after he engaged in protected activities.

Causal Connection Between Exercise of Rights and Discrimination - An employee may establish the requisite causal connection by showing that adverse action followed the employee's known exercise

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[12] The "small plant doctrine" may be used to establish the requisite employer knowledge in certain circumstances. Employer knowledge is inferred where union activities in a small workforce and are carried on in such a manner or at such times that it may be presumed that the employer must have noticed them. See, The Developing Labor Law, Chapter 7 - II. (Morris, ed. 1983). See, also, Port of Pasco, Decisions 3307, 3307-A (PECB, 1990); and Asotin County Housing Authority, Decisions 2471, 2471-A (PECB, 1987).

of a protected right under circumstances from which one can reasonably infer a connection. Employers are not in the habit of announcing retaliatory motives, so circumstantial evidence of a causal connection can be relied upon. Wilmot, at p. 70.

In addition to above-noted evidence that Williams' protected activity was known to the employer, there is evidence of employer animus against the organizing effort. Meyers, Hillier and city council member Robert Brosey all testified that the union issue did not bother them, and that in some ways, they would prefer to deal with a union rather than with the employees, but the employer's vigorous opposition in the representation case leaves us with a different impression.

In a conversation after the union filed the representation petition, Meyers told McPherson "you're making [Mayor] Ken [Crocker] crazy with this union thing". At the December 2, 1991 council meeting at which the insurance issue was discussed, Brosey became visibly angry, pounded the table, and told the employees they were not going to get union insurance. In a discussion between Crocker and McPherson on January 10, 1992, Crocker complained of "the union problems", along with the insurance issue which was by then closely identified with the union. In about April of 1992, Meyers told Risley that the city was prepared to go to the Supreme Court and to bankrupt the city to keep him out of the union. Crocker's testimony that he was worried and that they "were dealing with [the union matter]", indicates a negative reaction to the employees' exercise of protected union activity.

The employer's change of the police officers' work schedules is further evidence of union animus. On December 2, 1991, the same day that Mauermann and Williams spoke in favor of union insurance at the city council meeting, Crocker changed Williams' work schedule to one less desireable. The change was effective December 9, 1991. Because of the timing of this sudden change in working

conditions, and because of the lack of prior similar actions in regard to Williams, we can reasonably question the employer's motivation and can infer a connection between this adverse action and Williams' exercise of a protected right.

The timing of the discharge itself also serves as additional circumstantial evidence of a causal connection between the employer's action and Williams' participation in union activity.[13] Williams was first confronted about the phone calls on April 27, 1992, and he met with McPherson and Hillier the next day. The Executive Director's order directing a cross-check was issued on following day, April 29, 1992. The administrative leave was suddenly converted to a discharge on May 8, 1992. The discharge of a union activist so close to significant events in the representation case certainly raises suspicion of discrimination.

Inasmuch as the foregoing evidence indicates that union animus could have been a motivating factor in the employer's actions against Williams, the burden of production is properly shifted to the employer.

The Employer's Burden of Production

At this stage, the employer has the opportunity to articulate legitimate, nonretaliatory reasons for its actions. If it does not produce sufficient evidence of such motivation for the discharge, the complainant will prevail.

The employer claims that Williams used city telephones for personal telephone calls, and then changed his story when confronted about his improper telephone use. As the Examiner correctly noted, the making of personal telephone calls at the employer's expense is not an activity protected by Chapter 41.56 RCW. The alleged misconduct

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[13] See, City of Olympia, Decision 1208-A (PECB, 1992).

thus could be a legitimate, nonretaliatory reason for the discharge of an employee.

The Substantial Factor Analysis

The remaining issue is whether the allegations of improper telephone use and change of story were the real reasons for Williams' discharge, or whether a retaliatory motive also played a substantial role in the employer's decision. As to this last issue, we find the Examiner erred. A preponderance of the evidence indicates that neither Williams' use of city phones for calls to his father, nor any change of story when confronted about the phone use, was the real reason for the employer's course of action.

The Phone Calls -

The record shows there were a number of phone calls to Williams' father. Williams claimed that he did not make some of the calls, and that those he made were business-related. That claim was substantiated in large part by the testimony of McPherson, Williams' immediate supervisor.

The record also shows that Williams had an earlier understanding with his employer that he was permitted to use city telephones to contact his father regarding search and rescue activities. There is unrebutted testimony from McPherson that Williams was using his credit card to call his father at one time in the presence of the previous mayor, and was told by the mayor that he did not have to use his own card if it was a search and rescue matter. This would indicate that, in making phone calls to his father regarding search and rescue activities, Williams was doing something that he had reason to believe had the full sanction of his employer.[14]

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[14] Crocker testified he was not aware of Williams' involvement in the Hug-a-Tree program. Without other specific direction from his employer, that program is also one which Williams could reasonably view as work-related.

When first confronted with the phone calls, Williams told the city council that it is hard to talk to one's father on the phone without getting into personal matters. It is often the case that a business call would include some personal conversation. After unrelated persons have become acquainted in a business context, it is predictable that a business call might involve an exchange of personal pleasantries. An exchange regarding personal matters would not be surprising when the business call is with a family member. The city had no specific written policy regarding telephone use, and the record indicates occasions on which city council members had themselves used city telephones for personal calls. In view of this, we find it hard to believe that making personal phone calls was the kind of offense for which a long time exemplary employee would be summarily discharged.

The Alleged Change of Story -

The employer claims that Williams was discharged for his change of story to claim the calls were business calls. There are a number of reasons to doubt this claim.

The first reason to doubt the employer's claim is that Crocker was seeking Williams' termination even before Williams allegedly changed his story. McPherson testified that Crocker suggested that Williams be fired for the misuse of city telephones even before Crocker's discussion with Williams about the calls. McPherson's unrebutted testimony indicates the employer was thinking about terminating Williams prior to any change of story.

Another reason for doubting the employer's claim is that a preponderance of the evidence shows that Williams did not lie about the calls, nor change his story as to their circumstances. Williams testified that when confronted by the city council, he stated his belief that the calls would have been related to legitimate business, but conceivably could have involved some personal discussion before they ended. McPherson's testimony

corroborated Williams' description of what he told the council. Crocker's testimony, on the other hand, was inconsistent. Crocker initially claimed that Williams did not contend the calls were business-related until the day after the council meeting. He next described Williams as implying that some of the calls were business-related. Finally, upon cross-examination Crocker admitted that Williams did say words to the effect of "how can you call on business and not get personal when you are talking to your dad?"

The foregoing evidence also causes us to discredit the assertion by Brosey and Meyers that Williams did not offer a justification for the calls, and their assertion that Williams did not state the calls may have been business-related. The record indicates that Williams did not change his position regarding the circumstances of the calls themselves, i.e., that they were made for business reasons but could have included some incidental discussion of personal matters.

As he obtained more information about the calls in question, and had time to think about them, Williams does appear to have become less willing to reimburse the city for all of the phone charges. That fact hardly supports a summary discharge. At the time of the first discussion, Williams had no time to examine the full telephone records, and to consider the circumstances of each call. Requiring an employee to have total recall of the specific nature of brief calls spread out over a two-year timeframe is an unrealistic expectation. After Williams and the police chief had time to think about the nature of the calls, it is understandable that more reasons for the calls would come to mind.

The employer's complete failure to accord Williams the pretermination due process hearing which it knew that Williams was entitled to receive provides further reason for us to question the employer's true motivation in suddenly converting what had been earlier announced as an administrative leave to a summary

discharge.[15] While the Commission has declined to extend the collective bargaining process and its unfair labor practice procedures to enforce the constitutional "due process" rights on which Loudermill is based, City of Bellevue, Decision 4324-A (PECB, 1994), that does not mean we cannot draw inferences regarding motivation when an employer knowingly violates those rights. Williams testified that while he was at the office of the city's attorney, Hillier told Meyers that Williams could not be fired before the city gave him a pretermination hearing. During his testimony, Hillier did not rebut that assertion by Williams. After the city council allegedly decided Williams had lied about the phone calls, Williams was never given notice of that charge and an opportunity to respond. Instead, Williams' request for a Loudermill hearing was rejected. The Examiner erred in giving no weight to the employer's apparently deliberate disregard for legal advice that Williams should receive a hearing prior to his discharge.

The Commission does not apply a "just cause" standard when evaluating the reasons for a discharge, but we can and do draw negative inferences when an employer resorts to an overly severe disciplinary response. The record indicates that Williams had substantial years of service with the city, and was viewed as an excellent police officer. There is no evidence that his honesty had ever been questioned previously, and it is undisputed that he had never received any prior discipline. Even if one were to assume that Williams did vary his explanations regarding the phone calls in some respects, the summary discharge of an employee with such a good record seems so overblown a reaction as to cause us to suspect the asserted justification for discharge was a pretext.

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[15] Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985), requires a public employer to hold a pretermination hearing and provide an employee due process rights prior to discharge. Loudermill requires notice of the charges, an explanation of the evidence, and an opportunity of the employee to respond.

The employer in this case purported to discharge Williams for one reason, the employee's alleged change of position. The record shows that it was originally considering discharge under a different reason, the making of personal phone calls using the employers' resources. This latter conduct had previously been sanctioned to some extent by the employer. The employer lacked substantial reason for its extreme action, and did not follow legal procedures. In light of evidence that Williams' union activity was known to the employer, and evidence of the employer's animus toward that activity, we conclude that Williams' protected activities were, at the very least, a "substantial motivating factor" in the employer's decision to discharge Williams. For all of the foregoing reasons, the decision of the Examiner that the discharge of Terry Williams did not violate RCW 41.56.140(1) is reversed.

NOW, THEREFORE, it is

ORDERED

1. The findings of fact issued in this matter by Examiner Rex L. Lacy are affirmed and adopted as the findings of fact of the Commission, except for paragraphs 11 and 15, which are amended to read as follows:

   (11) On April 27, 1992, Williams was directed to appear at a city council meeting where he was questioned about certain long distance telephone calls that had been charged to the employer's telephone number. Williams acknowledged that some of the calls had been made by him to his father's residence in Mossyrock, Washington. Williams asserted the calls would probably have been initiated for a business reason, but could have turned to personal matters before they ended. Williams asked if the council thought he should pay for those calls.

Williams and McPherson subsequently recalled more business-related reasons for the calls and made that known to the employer.

(15) On May 8, 1992, Williams was summoned to a meeting with Crocker and Meyers. During that meeting, Crocker discharged Williams. Williams' request for a pretermination hearing was denied.

2. The conclusions of law issued in this matter are affirmed and adopted as the conclusions of law of the Commission, except for paragraph 3, which is amended to read as follows:

(3) The involvement of Terry Williams in union activities protected by Chapter 41.56 RCW was a substantial motivating factor in the City of Winlock's decision to discharge him, so that the employer's action was an unfair labor practice under RCW 41.56.140(1).

3. The order issued by Examiner Lacy in the matter concerning Terry Williams [Case 9827-U-92-2239, Decision 4784] is vacated.

4. [Case 9581-U-92-2239, Decision 4784-A] The City of Winlock, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

A. CEASE AND DESIST from:

(1) Discharging or otherwise discriminating against Terry Williams or any other employee of the City of Winlock, in reprisal for the pursuit of union activities protected by Chapter 41.56 RCW.

(2) In any other manner, interfering with, restraining or coercing its employees in their exercise of their collective bargaining rights secured by the laws of the State of Washington.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:

(1) Offer Terry Williams immediate and full reinstatement as an employee in good standing of the City of Winlock, and make him whole by payment of back pay and benefits, for the period from May 8, 1992 to the date of the unconditional offer of reinstatement made pursuant to this order. Such back pay shall be computed, with interest, in accordance with WAC 391-45-410.

(2) Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall be duly signed by an authorized representative of the above-named respondent, and shall remain posted for 60 days. Reasonable steps shall be taken by the above-named respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

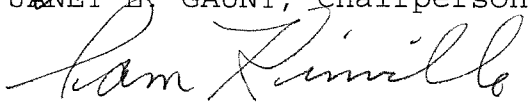
(3) Notify the above-named complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the above-named complainant with a signed copy of the notice required by the preceding paragraph.

(4) Notify the Executive Director of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Executive Director with a signed copy of the notice required by this order.

Issued at Olympia, Washington, the 28th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

JANET L. GAUNT, Chairperson



SAM KINVILLE, Commissioner

PUBLIC EMPLOYMENT RELATIONS COMMISSION

APPENDIX

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL offer Terry Williams immediate and full reinstatement as a employee in good standing of the City of Winlock, and will make him whole by payment of back pay and benefits, less any interim earnings and unemployment compensation, for the period from May 8, 1992 to the date of the unconditional offer of reinstatement made pursuant to this Order. Such back pay shall be computed, with interest, in accordance with WAC 391-45-410.

WE WILL NOT interfere with, restrain or coerce our employees in the exercise of their rights under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW.

DATED: _____

CITY OF WINLOCK

BY: _____
AUTHORIZED REPRESENTATIVE

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.