STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

DARLA WHEATON,

vs.

GRAYS HARBOR TRANSPORTATION AUTHORITY and AMALGAMATED TRANSIT #1384,

Respondents.

Complainant,

CASE NO. 2229-U-79-321 DECISION NO. 828 PECB

ORDER OF DISMISSAL

The complaint charging unfair labor practices was filed in the captioned matter on August 14, 1979, and is before the Executive Director for a preliminary ruling pursuant to WAC 391-21-510. The material allegations of the complaint are:

"The Complainant was employed as a bus driver by the Grays Harbor Transportation Authority in Grays Harbor County, State of Washington. On June 4, 1979 the Complainant received a notice she would be suspended for two days because of a chargeable accident pursuant to Grays Harbor Transit Driver's Manual. On June 21, 1979 the Complainant received a termination notice because of another chargeable accident. Prior to the effective date of the termination notice, June 24, 1979, the Complainant requested her shop steward, CARL HAGAN, to request the initiation of grievance procedures or arbitration between the Union, AMALGAMATED TRANSIT #1384. The Complainant was later notified that the Union refused to initiate the grievance or arbitration procedures."

The complaint seeks an order requiring the respondents to proceed to arbitration on the complainant's grievance.

The Public Employment Relations Commission does not assert jurisdiction under the unfair labor practice provisions of RCW 41.56 to enforce an agreement to arbitrate contained in a collective bargaining agreement. <u>Thurston County Communications Board</u>, Decision 103 (PECB, 1976). The Commission does not become involved, through unfair labor practice proceedings, in the direct enforcement of contract terms, <u>City of Walla</u> <u>Walla</u>, Decision 104 (PECB, 1976), and such matters are generally reserved to contractual arbitration machinery and the Courts. The Commission's unfair labor practice jurisdiction could be invoked where an alleged breach of the union's duty of fair representation is involved, Miranda

2229-U-79-321

<u>Fuel Co.</u>, 140 NLRB 181 (1962); but there is no allegation here that the union's failure or refusal to process the complainant's discharge grievance was arbitratory, discriminatory or in bad faith or even that it was processed by the union in a perfunctory manner. Therefore, it appears that even if the complainant were able to prove all of the facts alleged, no unfair labor practice violation could be found.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is dismissed for failure to state a cause of action.

DATED at Olympia, Washington, this 11th day of March, 1980.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director