

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MICHELE ANN O'ROKE AND LACEY POLICE OFFICERS' GUILD,)	
)	
Complainants,)	CASE NO. 1989-U-79-271
)	
vs.)	DECISION NO. 754 PECB
)	
CITY OF LACEY,)	ORDER OF DISMISSAL
)	
Respondent.)	

The complaint charging unfair labor practice was filed in the captioned matter on February 28, 1979. The complaint was signed by Michele Ann O'Roke. Although the complaint names the "Lacey Police Officers' Guild" as a party complainant and names the Guild's attorney as the person to contact on behalf of the complainant, O'Roke advised the Commission that she was not represented in this matter by the Guild's attorney. The matter is before the Executive Director for a preliminary ruling pursuant to WAC 391-21-510. The complaint makes reference to a "grievance" as an attachment, but no such document was attached to the complaint filed with the Commission. That circumstance was brought to the attention of the Guild's attorney and O'Roke in a letter dated October 5, 1979. The same letter indicated that the preliminary ruling would be made on the existing pleadings unless the missing documents were furnished within ten days. No response has been received from O'Roke; and the Guild, through its attorney, disclaimed any interest in the prosecution of this case.

The factual allegations of the complaint are:

"That a grievance was filed by Michele Ann O'Roke, through the Lacey Police Officers' Guild, alleging that complainant was unfairly reclassified into a lower classification after accepting all duties and responsibilities of her predecessor, with the exception of traffic safety. Grievance was filed duly through Guild Attorney. The City answered the grievance by stating that reclassification was a management right and not covered under the terms of the guild contract. RCW 41.56.030 and Article I of Guild contract covers discrimination in employment. The grievance states that the City of Lacey did reclassify an existing position previously held by Robert Ingram, listed as Administrative Assistant in the budget books, to a lower classification."

The "unfair labor practices" which the Public Employment Relations Commission is empowered by RCW 41.56.160 are defined by, and limited to, those stated in RCW 41.56.140 and RCW 41.56.150. The factual allegations of this complaint suggest an "equal pay" claim which would be justiciable, if at all, before the Washington State Human Rights Commission rather than in unfair

labor practice proceedings before the Public Employment Relations Commission. The statute does not make "violation of a collective bargaining agreement" an unfair labor practice, and PERC therefore also lacks jurisdiction to address the merits of the underlying grievance through unfair labor practice proceedings. See: Thurston County Communications Board, Decision 103 (PECB, 1976) and City of Seattle, Decision 205 (PECB, 1977).

Although unfair labor practice violations might be found in connection with the filing and prosecution of a grievance or in connection with a unilateral change of a wage rate, the course of events alleged in the complaint does not describe such a situation. The grievance filing evidently followed the change of the wage rate, and there is no suggestion that there has been any reprisal or discrimination against O'Roke because of the filing of the grievance. There is no suggestion of a request by the Guild to bargain with the City over the re-allocation of work and change of wage rates, nor is there suggestion of a refusal to bargain by the City on those matters. Assuming all of the facts alleged in the complaint to be true and provable, the complaint still fails to state an unfair labor practice violation. It follows that dismissal is indicated under WAC 391-21-510.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the captioned matter is dismissed.

DATED at Olympia, Washington this 30th day of October, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director