

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS UNION, LOCAL 313,)	
)	CASE NO. 3525-U-81-523
Complainant,)	
)	DECISION NO. 1295 - PECB
vs.)	
)	
PIERCE COUNTY,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	

The complaint was filed on July 8, 1981. The complaint alleges:

- "3. Local 313 is the bargaining representative of certain employees of Pierce County's Public Works Department. Local 313 and Pierce County are parties to a contract setting the terms and conditions of employment of those employees.
4. During the negotiations leading to the 1980-1981 contract, Pierce County had a policy of keeping the employees on the union negotiation on the County payroll during the negotiations. The County also kept the members of its negotiating team on the County payroll for the time spent in negotiations.
5. The parties began negotiations for a new contract in June, 1981.
6. After negotiations had begun, Pierce County unilaterally issued a "directive" cancelling the policy and retroactively taking pay away from union negotiators for time spent in negotiations on or after June 11. A copy of the notice of the change is attached as Exhibit 1 to this Complaint.
7. The adoption of these rule changes came without any prior notice to or negotiations with Local 313, Local 313 was only notified after the fact.
8. The unilateral adoption of rule changes directly affecting the working conditions of represented employees without notifying and bargaining with the bargaining representative violated the following portions of the applicable law:

RCW 41.56.010
RCW 41.56.080
RCW 41.56.100
RCW 41.56.140
RCW 41.58.040"

On October 13, 1981, the undersigned sent a letter to the parties that a preliminary ruling would be delayed for a period of fourteen (14) days to allow the parties an opportunity to express their views on the propriety of deferral of the dispute to grievance arbitration. In addition, the parties were requested to furnish a copy of the existing collective bargaining

agreement. Neither party has responded. Therefore, the preliminary ruling must be made on the basis of the allegations as they were originally filed and the contract obtained from the parties in a similar case: Case No. 3465-U-81-504. This matter is before the Executive Director pursuant to WAC 391-45-110.

It appears that the dispute is susceptible to resolution through grievance arbitration under the contract referred to in the complaint. In City of Richland, Decision No. 246 (PECB, 1977), the Examiner dismissed unfair labor practice allegations and deferred to a contractual grievance procedure, relying on the decision of the National Labor Relations Board in Collyer Insulated Wire, 192 NLRB 837 (1971).

These principles have been implemented in numerous subsequent cases. The Public Employment Relations Commission does not have "violation of contract" jurisdiction through the unfair labor practice provisions of RCW 41.56. See: City of Walla Walla, Decision No. 104 (PECB, 1976). Given the nature of the allegation in this matter, there is no reason to believe that the underlying contract interpretation dispute will not be resolved through arbitration and/or the Courts. The tests for deferral are met in this case.

NOW, THEREFORE, it is

ORDERED

The complaint of unfair labor practices filed in the above-entitled matter is dismissed without prejudice to a later refiling upon a proper showing that either:

- (1) The dispute has not, with reasonable promptness after the issuance of this decision, been resolved by amicable settlement, by grievance arbitration or by the Courts, or
- (2) Grievance arbitration proceedings resulting in the final resolution of the dispute have not been fair and regular or have reached a result which is repugnant to the Act.

DATED at Olympia, Washington this 17th day of November, 1981.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director