



Also attached to the complaint is a copy of a memo dated January 10, 1983 concerning shift changes, a copy of a grievance form filed by the complainant under date of January 10, 1983, and a copy of the findings and decision of a board of adjustment issued under date of February 9, 1983. The board denied the complainant's grievance by unanimous decision. The complaint is filed on the complaint form supplied by the Commission, and that form provides boxes in which the party filing the complaint is asked to indicate the specific provisions of RCW 41.56 claimed violated. None of the boxes are checked on the complaint filed in this case. In the space provided for specification of a remedy, the complainant has written: "King County Animal Control - General Services -Breach of Contract - Jan 1, 1981 - Dec 31, 1982. General Teamster #174 -Breach of Fair Representation accordding (sic) to the grievance filed on Jan 10, 1983. Art 8 Sect. one - para A. Contract to be enforced without reservation."

At this stage of the proceedings, it must be assumed that all of the facts alleged by the complainant are true and provable. The question at hand is whether the complaint states claim for relief under the unfair labor practice provisions of the statute. In the case at hand, it is concluded that the complaint as filed fails to state a cause of action.

The Public Employment Relations Commission does not assert jurisdiction through the unfair labor practice provisions of RCW 41.56 to enforce collective bargaining agreements. See: City of Walla Walla, Decision 104 (PECB, 1976). It does not appear that there is any basis for the Commission to assert jurisdiction over King County to enforce the contract provision on which the complainant relies.

The complaint makes a passing reference to a claim of breach of duty of fair representation directed against the union, but does not develop the facts supporting such a claim except that it can be inferred that the complainant is unhappy with the union's disposition of his grievance. The Public Employment Relations Commission has declined to assert its unfair labor practice jurisdiction to determine "duty of fair representation" claims arising exclusively out of the processing of grievances. See: Mukilteo School District, Decision 1381 (PECB, 1982). The reason for that policy is that, although the Commission might have jurisdiction over the relationship between the employee and the exclusive bargaining representative, the Commission lacks jurisdiction over the employer for enforcement of the collective bargaining agreement. The courts have jurisdiction to enforce the collective bargaining agreement, and are in a position to deal with a "breach of duty of fair representation" claim if raised in such proceedings.

With the direction provided here as to what is not available through the unfair labor practice procedures administered by the Public Employment

Relations Commission, the complainant may be better able to focus attention on any claims which are within the jurisdiction of the Commission.

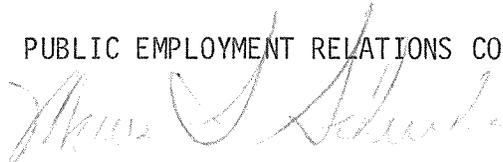
NOW, THEREFORE, it is

ORDERED

The complainant will be allowed a period of fourteen (14) days following the date of this Order to amend the complaints. In the absence of an amendment, the complaints will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 15th day of April, 1983.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director