

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF	)	
FIREFIGHTERS, LOCAL 2299,	)	
	)	
Complainant,	)	CASE NO. 7515-U-88-1571
	)	
vs.	)	DECISION 3094 - PECB
	)	
CITY OF CLARKSTON,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
	)	
	)	

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The complaint charging unfair labor practices was filed in the above-entitled matter on August 9, 1988. The allegations concern the employer's insistence to impasse on "waiver" of bargaining rights and "discipline" proposals which it advanced in collective bargaining, with the union asserting that the proposals were not mandatory subjects of bargaining.

The case was reviewed for the purpose of making a preliminary ruling pursuant to WAC 391-45-110, and the parties were advised telephonically of the conclusions reached. The union responded with a letter filed on August 18, 1988, withdrawing the portion of the complaint relating to "waiver". The matter remained pending as to the "discipline" issue, where the employer is alleged to have insisted upon contract language obligating bargaining unit members to continue working in a strike. Both procedural and substantive problems were identified in a preliminary ruling letter issued on December 22, 1988.

The procedural problems relate to the obligation upon both parties to communicate their claims that a proposal advanced by

the other party is not a mandatory subject of bargaining, prior to filing unfair labor practice charges on the issue. See, King County Fire District No. 39, Decision 2328 (PECB, 1985). In this case, it is not clear that the complainant informed the employer of the claim that the employer's proposal on "discipline" was not a mandatory subject of bargaining.

Even if the procedural problem could be circumvented, the substantive problem is not avoidable. Chapter 41.56 RCW, under which these parties bargain, does not confer or protect a right to strike. RCW 41.56.120. Additionally, the bargaining unit involved here is composed "uniformed personnel" within the meaning of RCW 41.56.030(7), who are subject to the strike prohibition found in RCW 41.56.490. Public employers are not precluded from threatening public employees with sanctions in the event of their participation in a strike or other work stoppage which is unprotected. Concrete School District, Decision 1059 (PECB, 1980). NLRB precedent arising in the context of a protected right to strike is inapposite to employees under Chapter 41.56 RCW in this area.

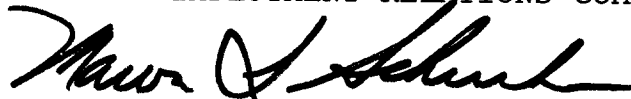
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is DISMISSED.

Dated at Olympia, Washington, this 9th day of January, 1989.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.