

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF	)	
COUNTY AND CITY EMPLOYEES,	)	
LOCAL 1374,	)	
	)	CASE 9187-U-91-2036
Complainant,	)	
	)	
vs.	)	DECISION 4006 - PECB
	)	
ADAMS COUNTY,	)	
	)	PRELIMINARY RULING AND
Respondent.	)	PARTIAL DISMISSAL
	)	
	)	

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The complaint charging unfair labor practices in the above-captioned matter was filed with the Public Employment Relations Commission on June 3, 1991. A preliminary ruling letter issued by the Executive Director on January 8, 1992, pursuant to WAC 391-45-110, noted a number of problems with the complaint as filed.

The union filed an amended complaint on January 28, 1992. The first 11 paragraphs of the statement of facts attached to the amended complaint are identical to the similar paragraphs of the original complaint. Three new paragraphs have been added in the amended complaint. That amended complaint is currently before the Executive Director for a preliminary ruling.

Paragraph 1 of the statement of facts identifies the parties and their relationship, and is taken to be merely background to the allegations which follow.

Paragraph 2 of the statement of facts lists bargaining sessions held by the parties between November 16, 1990 and February 19, 1991. The preliminary ruling letter noted that the allegation was subject to the interpretation that the union was alleging a

actions by a party to invoke the dispute resolution procedures of the statute do not, in and of themselves, form a basis for finding any unfair labor practice.

Paragraphs 7 through 11 of the statement of facts deal with the refusal of the employer to pay union negotiators for their time spent in collective bargaining negotiations. The preliminary ruling letter noted:

Nothing in the statute requires an employer to compensate its employees for their time spent representing their union in collective bargaining. The mere fact that the employer has provided such compensation on two past occasions (the dates and sequence of which were not stated) does not, in and of itself, form a basis for finding that the employer has assumed any ongoing obligation in that regard.

Paragraph 14 of the amended complaint alleges "bad faith" and "inconsistency" by the employer in its positions on providing paid time off for union negotiators. As previously noted, however, paid time for union negotiators is not a requirement of the statute. At most, it may be a mandatory subject of bargaining. The willingness of the employer to pay union negotiators under some circumstances does not compel it to agree to such a procedure in every circumstance. The duty to bargain defined in RCW 41.56.030(4) does not compel either party to make a concession or reach an agreement; a response of "no" can be lawful. Thus, the passing reference to "bad faith" is not sufficient to support processing of the "refusal to pay" allegations in this case.

NOW, THEREFORE, it is

ORDERED

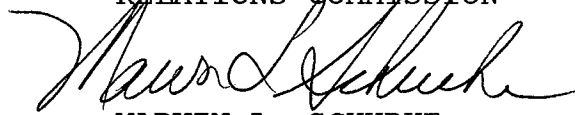
1. Paragraph 3 of the original and amended complaint, as augmented by Paragraphs 12 and 13 of the amended complaint filed in

this matter, is found to state a cause of action and shall be assigned, in due course, to an Examiner for further proceedings under Chapter 391-45 WAC.

2. Except as provided in paragraph 1 of this order, the allegations of the complaint charging unfair labor practices and amended complaint filed in this matter are DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, on the 4th day of March, 1992.

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

A handwritten signature in dark ink, appearing to read 'Marvin L. Schurke', is written over the printed name and title.

MARVIN L. SCHURKE  
Executive Director

Paragraph 2 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.